

SECTION 101. Section 103 of chapter 32 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 103, the words "the provisions of paragraph (c)" and inserting in place thereof the following words:- this section.

SECTION 102. Section 18 of chapter 34B of the General Laws is hereby amended by inserting after the second paragraph the following paragraph:-

Notwithstanding the provisions of this section to the contrary, the employees of the Essex Independent Agricultural and Technical Institute shall be members of the Essex Regional Retirement System. Said system shall retain all liability attributable to such employees for creditable service earned as employees of Essex County. The Essex Independent Agricultural and Technical Institute shall be a member unit of said regional system and shall make any payments required pursuant to chapter 32. Should said Essex Independent Agricultural and Technical Institute be abolished, the successor agency, or in the absence of a successor agency, the commonwealth, shall become responsible for any unfunded liability attributable to employees of said institute.

SECTION 103. Section 17 of chapter 37 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The salaries of the sheriffs of the counties of Bristol, Plymouth and Suffolk and of the former counties of Essex, Hampden, Middlesex and Worcester shall be a sum equivalent to 95 per cent of the salary of an associate justice of the superior court. The salaries of the sheriffs of the counties of Barnstable and Norfolk and of the former counties of Berkshire and Hampshire shall be a sum equivalent to 90 per cent of the salary of an associate justice of the superior court. The salaries of the sheriffs of the counties of Dukes County and Nantucket and the salary of the sheriff of the former county of Franklin shall be a sum equivalent to 75 per cent of the salary of an associate justice of the superior court.

SECTION 104. The second paragraph of section 3 of chapter 40A of the General Laws, as so appearing, is hereby amended by adding the following sentence:- For the purposes of this chapter, the term public service corporation shall not include commercial mobile radio service providers.

SECTION 105. Chapter 51 of the General Laws, is hereby amended by striking out section 4, as appearing in the 1998 Official Edition, and inserting in place thereof the following section:-

Section 4. Registrars, assistant registrars, or boards having similar duties under any special or general law, except in the city of Boston, shall annually in January or February visit or communicate with the residents of every building in their respective cities and towns, and, after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, date of birth, occupation, veteran status, nationality if not a citizen of the United States, and residence on January first in the preceding year and in the current year, of every person three years of age or older residing in their respective cities and towns. The police department of the city or town shall, upon request, have access to said lists. A list of all persons 3 to 21, inclusive, years of age shall be transmitted by the board of registrars to their respective school committee not later than April first in each year. Said list shall contain the name, residence and age or date of birth of each such person; provided, however, that the names of persons 3 to 16, inclusive, years of age, shall not be disclosed to any person other than their respective school committee or boards of trustees of county agricultural schools or police department; and provided, further, that the name and address of any person who provides the registrars with a copy of a court order granting

protection, or evidence of residence in a protective shelter, or an affidavit signed by a chief of police or his designee that said person is entitled to have certain information withheld from the public under section 24C of chapter 265, shall not appear on the street list and such names shall not be disclosed to any person. That proportion of any expenses incurred by the registrars under this section, equal to the proportion that the number of persons under 17 years of age bears to the total number of persons listed thereunder, shall be carried as an item in the school committee budget.

In the city of Boston, the registrars, assistant registrars, or boards having similar duties under any special or general law shall annually in January or February visit or communicate with the residents of every building in said city and after diligent inquiry, shall make true lists containing, as nearly as they can ascertain, the name, date of birth, occupation, veteran status, nationality if not a citizen of the United States, and residence on January 1 in the preceding year and in the current year, of every person 17 years of age or older, residing in said city. The police department of the city of Boston shall, upon request, have access to said lists.

In any city or town which communicates with residents by mail for the purpose of obtaining such information, the communication shall state in boldface type on the postcard, envelope and printed material contained in such communication the following statement: "Warning -- failure to respond to this mailing shall result in removal from the active voting list and may result in removal from the voter registration rolls.". Registrars, assistant registrars or boards in such cities or towns communicating with residents by mail for the purpose of obtaining such information may require a response under the penalties of perjury.

SECTION 106. Section 47C of said chapter 51, as so appearing, is hereby amended by inserting after the word "occupation", in line 5, the following words:- , veteran status.

SECTION 107. Said section 47C of said chapter 51, as so appearing, is hereby further amended by inserting, after the word "commissioner", in lines 12 and 13, the following words:- , adjutant general.

SECTION 108. Section 9 of chapter 55 of the General Laws, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

No individual, candidate or political committee, or person acting on behalf of said individual, candidate, or political committee, shall accept a contribution of money from any one person or political committee if the aggregate amount contributed in a calendar year exceeds \$50 except by a written instrument or by direct deposit in accordance with section 9A. For the purposes of the preceding sentence the term "written instrument" shall mean a check on which the contributor is directly liable or which is written on a personal, escrow, trust, partnership, business or other account which represents or contains the contributor's funds. The term "written instrument" shall also mean for contributions by credit card, a paper record signed by the cardholder or, in the case of such contribution made over the Internet, an electronic record created and transmitted by the cardholder. The term "written instrument" shall not mean a certified check, cashier's check, treasurer's check, registered check, money order, traveler's check or other similar negotiable instrument. The director shall establish reasonable rules and regulations concerning the making of contributions by a written instrument. No individual, candidate, political committee, or person acting on behalf of said individual, candidate, or political committee, shall make an expenditure for an amount exceeding \$50 except by check or by credit card in accordance with the following paragraph.

SECTION 109. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in lines 494 and 495, the words "and in clauses Twenty-second A, Twenty-second B, Twenty-second C and Twenty-second E".

SECTION 110. The first paragraph of clause Twenty-second A of said section 5 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- An exemption under this clause shall continue unchanged for the benefit of the surviving spouse after the death of such disabled veteran as long as the surviving spouse of the qualified veteran shall remain an owner and occupant of a domicile subject to the exemption.

SECTION 111. The first paragraph of clause Twenty-second B of said section 5 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- An exemption under this clause shall continue unchanged for the benefit of the surviving spouse after the death of such disabled veteran, as long as the surviving spouse of the qualified veteran shall remain an owner and occupant of a domicile subject to the exemption.

SECTION 112. The first paragraph of clause Twenty-second C of said section 5 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- An exemption under this clause shall continue unchanged for the benefit of the surviving spouse after the death of such a disabled veteran, as long as the surviving spouse of the qualified veteran shall remain an owner and occupant of a domicile subject to the exemption.

SECTION 113. The first paragraph of clause Twenty-second E of said section 5 of said chapter 59, as so appearing, is hereby amended by adding the following sentence:- An exemption under this clause shall continue unchanged for the benefit of the surviving spouse after the death of such disabled veteran as long as the surviving spouse of the qualified veteran shall remain an owner and occupant of a domicile subject to the exemption.

SECTION 114. Said section 5 of said chapter 59, as so appearing, is hereby further amended by adding the following clause:-

Fifty-fourth. Personal property, if less than an amount established by the city or town, but not in excess of \$10,000 of value. This clause shall take effect upon its acceptance by a city or town, which shall establish a minimum value of personal property subject to taxation and may modify the minimum value by vote of its legislative body.

SECTION 115. Section 5I of said chapter 59, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "deputy director of the division of employment and training" and inserting in place thereof the following words:- director of labor and workforce development or, where the business is a sole proprietorship or partnership not subject to the provisions of chapter 151A, as determined by the assessors.

SECTION 116. Said section 5I of said chapter 59, as so appearing, is hereby further amended by adding the following two paragraphs:-

In cities and towns in which an exemption is made available hereunder, a taxpayer aggrieved by the failure to receive such commercial exemption may apply for such commercial exemption to the assessors, in writing, on a form approved by the commissioner within three months after the date on which the bill or notice of assessment was sent.

A timely application filed hereunder shall, for the purposes of this chapter, be treated as a timely filed application pursuant to section 59.

SECTION 117. Section 3A of chapter 60 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word "residential", in line 27, the following words:- or commercial.

SECTION 118. Section 79 of chapter 60 of the General Laws, as so appearing, is hereby amended by striking out, in line 14, the words "five thousand dollars" and inserting in place thereof the following figure:- \$10,000.

SECTION 119. Paragraph (a) of Part B of section 3 of chapter 62 of the General Laws, as amended by section 68 of chapter 127 of the acts of 1999, is hereby amended by adding the following subparagraph:-

(13) An amount equal to the amount of the charitable contribution deduction allowed or allowable to the taxpayer for the taxable year under section 170 of the Code. All requirements, conditions and limitations imposed upon charitable contributions under the Code shall apply for purposes of determining the amount of the deduction hereunder except that a taxpayer shall not be required to itemize his or her deductions in his or her federal income tax return.

SECTION 120. Subsection (j) of section 6 of said chapter 62 of the General Laws, as so appearing, is hereby amended by striking out paragraph (1) and inserting in place thereof the following paragraph:-

(1) A taxpayer who commences and diligently pursues an environmental response action within five years from the effective date of this section and who achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations promulgated thereunder which includes an activity and use limitation shall, at the time such permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998 and January 1, 2007 for any property it owns or leases for business purposes and which is located within an economically distressed area as defined in section 2 of chapter 21E. Such costs shall be not less than 15 per cent of the assessed value of the property prior to remediation and the site shall be reported to the department of environmental protection. A credit of 50 per cent of such costs shall be allowed for any such taxpayer who achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the Massachusetts Contingency Plan at 310 CMR 40.00, as amended, which does not include an activity and use limitation. Only a taxpayer that is an eligible person, as defined by section 2 of chapter 21E, and not subject to any enforcement action brought pursuant to chapter 21E shall be allowed a credit.

Any credit allowed under this subsection may be taken only after a response action outcome statement or remedy operation status submittal has been filed with the department of environmental protection as set forth in the Massachusetts Contingency Plan at 310 CMR 40.00, as amended.

SECTION 121. Said subsection (j) of said section 6 of said chapter 62, as so appearing is hereby further amended by striking out paragraph (4) and inserting in place thereof the following paragraph:-

(4) For the purposes of this section, net response and removal costs shall be expenses paid by the taxpayer for the purpose of achieving a permanent solution or remedy operation status in compliance with chapter 21E. No credit shall be allowed under this section for the amount of state financial assistance received from the Redevelopment Access to Capital program established pursuant to section 60 of chapter 23A or from the Brownfields Redevelopment Fund, established in section 29A of chapter 23G. For the purposes of the Redevelopment Access to Capital program, the amount of state financial assistance shall be calculated as the amount of state funds paid on behalf of the borrower for participation in the program and not the amount of the loan guaranteed but, if the loan guarantee is invoked, any credit taken for the amount of the loan shall be added back as taxes due in the year the loan is paid.

SECTION 122. Paragraph (c) of section 8 of said chapter 62, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- In the case of a corporate trust doing business both within and outside of the commonwealth and subject to tax under this section, dividends received by shareholders who are Massachusetts residents shall be deemed to have been made from tax-free earnings and profits to the extent that the earnings and profits of the trust are not apportioned to the commonwealth and subject to tax under paragraph (a) but such shareholders shall be entitled to credit for income taxes paid to other jurisdictions on such earnings and profits, either by the shareholders or by the corporate trust, as provided under subsection (a) of section 6.

SECTION 123. Said paragraph (c) of said section 8 of said chapter 62, as so appearing, is hereby further amended by striking out the last paragraph and inserting in place thereof the following paragraph:-

Dividends on shares of any corporate trust subject to taxation under this chapter and which is a federal S corporation shall also be exempt from taxation in the manner described above.

SECTION 124. Section 38Q of chapter 63 of the General Laws, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) A domestic or foreign corporation or limited liability corporation which commences and diligently pursues an environmental response action within 5 years from the effective date of this section and which achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the regulations promulgated thereunder which includes an activity and use limitation shall, at the time such permanent solution or remedy operation status is achieved, be allowed a base credit of 25 per cent of the net response and removal costs incurred between August 1, 1998 and January 1, 2007 for any property it owns or leases for business purposes and which is located within an economically distressed area as defined in section 2 of chapter 21E; provided, however that these costs shall be no less than 15 per cent of the assessed value of the property prior to remediation provided further that the site was reported to the department of environmental protection; and provided further, that a credit of 50 per cent of such costs shall be allowed for any such corporation which achieves and maintains a permanent solution or remedy operation status in compliance with chapter 21E and the Massachusetts Contingency Plan provided in 310 CMR 40.00, as amended, which does not include an activity and use limitation. Only a domestic or foreign corporation, or limited liability corporation that is an eligible person, as defined by section 2 of chapter 21E, and not subject to any enforcement action brought pursuant to chapter 21E shall be allowed a credit.

Any credit allowed under this subsection may be taken only after a response action outcome statement or remedy operation status submittal has been filed with the department of environmental protection as set forth in said Massachusetts Contingency Plan.

SECTION 125. Said section 38Q of said chapter 63, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) For the purposes of this section, net response and removal costs shall be expenses paid by the taxpayer for the purposes of achieving a permanent solution or remedy operation status in compliance with chapter 21E; provided, however that no credit shall be allowed under this section for the amount of state financial assistance received from the Redevelopment Access to Capital Program established pursuant to section 60 of chapter 23A, or from the Brownfields Redevelopment Fund, established pursuant to section 29A of chapter 23G of the General Laws.

For the purpose of the redevelopment access to capital program, the amount of state financial assistance shall be calculated as the amount of state funds paid on behalf of the borrower for participation in the program, and not the amount of the loan guaranteed. In the event the loan guarantee is invoked, any credit taken for the amount of the loan shall be added back as taxes due in the year the loan is paid.

SECTION 126. Section 1 of chapter 64A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in lines 70 to 73, inclusive, the words "nineteen and one-tenth per cent of the average price, as determined by the commissioner for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than twenty-one cents per gallon" and inserting in place thereof the following words:- shall be 21 cents per gallon.

SECTION 127. Chapter 64D of the General Laws is hereby amended by striking out section 11, as so appearing, and inserting in place thereof the following section:-

Section 11. There shall be established upon the books of each county that has not been abolished pursuant to the provisions of chapter 34B a separate fund, maintained separate and apart from all other funds and accounts of each county, to be known in each case as the Deed's Excise Fund.

Notwithstanding the provisions of any general or special law and of this chapter to the contrary, and except for Barnstable county and all counties that have been abolished pursuant to the provisions of chapter 34B or other applicable provision of law, on the first day of each month, 42.5 per cent of the taxes collected pursuant to the provisions of this chapter shall be transmitted to the Deed's Excise Fund for each county. For Barnstable county, on the first day of each month, 28.33 per cent of the taxes collected pursuant to the provisions of this chapter, but not including the additional excise authorized under the provisions of section 2 of chapter 163 of the acts of 1988, shall be transmitted to the Deed's Excise Fund. Notwithstanding the provisions of any general or special law and of this chapter to the contrary, and except for Barnstable county and all counties that have been abolished pursuant to the provisions of chapter 34B or other applicable provision of law, on the first day of each month, 7.5 per cent of the taxes collected pursuant to the provisions of this chapter shall be transmitted to the County Correction Fund established in section 13. For Barnstable county, on the first day of each month, 5 per cent of the taxes collected pursuant to the provisions of this chapter, but not including the additional excise authorized under the provisions of said section 2 of said chapter 163, shall be transmitted to said County Correction Fund. The remaining percentage of taxes collected under the provisions of this chapter, including all taxes collected under the provisions of this chapter in all counties that have been abolished pursuant to the provisions of chapter 34B or other applicable provision of law shall be transmitted to and retained by the general fund in accordance with the provisions of section 10.

SECTION 128. Section 13 of said chapter 64D, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following two paragraphs:-

There is hereby established on the books of the commonwealth a separate fund, to be known as the County Correction Fund. Said fund shall be maintained separate and apart from all other funds and accounts of the commonwealth. Moneys from said fund shall be used solely for the operation and maintenance of any jail or house of correction in any county that has not been abolished pursuant to the provisions of chapter 34B or other applicable provision of law, including other statutorily authorized facilities and functions of the office of the sheriff of any

such county and programs to reduce overcrowding in the jails and houses of correction of any such county.

In order to obtain money from said fund, the sheriff of a county that has not been abolished pursuant to the provisions of chapter 34B or other applicable provision of law, shall make application to the county government finance review board on a form prescribed by the secretary of administration and finance. Each such request shall be accompanied by copies of the budget for any jail or house of correction in such county for the current fiscal year and the previous fiscal year. The sheriff shall submit such other information and documentation as the board may require. The board shall review all of the information provided by a county sheriff and make a determination as to the amount of money, if any, which shall be given to the applicant from the fund, before any funds are given to the applicant notification shall be provided to the house and senate committees on ways and means.

SECTION 129. Section 4 of chapter 64E of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:- Notwithstanding the foregoing, the tax per gallon payable upon each gallon of liquified gas shall be separately determined by the commissioner, utilizing the same procedures as those used for fuel under chapter 64A, at a rate of 19.1 per cent of the average price computed to the nearest tenth of one per cent per gallon and such tax per gallon as so determined shall apply to each gallon of liquified gas sold or used by a licensee in the commonwealth during the calendar month covered by the return.

SECTION 130. Section 3 of chapter 64H of the General Laws, as so appearing, is hereby amended by inserting after subsection (a) the following subsection:-

(b) Any purchaser who operates a business and who acquires tangible personal property or services may apply to the commissioner for a direct payment permit. The commissioner, in his discretion, may issue a direct payment permit to the purchaser. A direct payment permit shall provide that no vendor making a sale to the permit holder shall be required to collect the sales or use tax otherwise payable on such sale and that the permit holder shall report, on such form as the commissioner shall designate, and pay directly to the commissioner the sales or use tax due on any tangible personal property or services acquired by him.

The use of a direct payment permit shall not affect the amount of sale or use tax due with regard to any transaction, but liability for payment of the sales or use tax shall be placed on the purchaser rather than on the vendor.

A direct payment permit shall be in a form prescribed by the commissioner and shall bear an identifying registration number, an issue date, an expiration date and a list of the types of transactions for which the permit cannot be used. The use of a direct payment permit shall be subject to such conditions as the commissioner shall determine to be appropriate, but such use shall not include purchases of motor vehicles or purchases of a personal nature. The commissioner shall issue regulations on the use of direct payment permits and such regulations may include, but shall not be limited to, requirements for the permit holder's duties to vendors, posting bond, monthly reporting and payment of tax, recordkeeping and periodic renewal of the direct payment permit.

The direct payment permit may be revoked by the commissioner at any time with the provision of 30 days' written notice and shall be revoked without notice if the commissioner determines that the collection of any tax due from the permit holder is in jeopardy. Any person whose direct payment permit is either voluntarily forfeited or canceled by action of the commissioner shall return the permit to the commissioner and immediately notify all vendors

from whom purchases of taxable items are made advising them that such person's direct payment permit is no longer valid.

A person who fails to give notification shall be fined \$1,000 per vendor to which notification was required to have been given. A direct payment permit shall not be transferable and the use of a direct payment permit shall not be assigned to a third party. The acceptance in good faith by any vendor of a certificate from a permit holder to the effect that he is in possession of a valid direct payment permit shall relieve such vendor of any obligation to collect the tax from the permit holder. Such certificate shall be in a form prescribed by the commissioner and shall be signed by and bear the name and address and registration number of the permit holder, as well as the permit's issue date, expiration date and list of prohibited transactions.

SECTION 131. Section 6 of chapter 64H of the General Laws, as amended by section 92 of chapter 127 of the acts of 1999, is hereby further amended by adding the following paragraph:-

(ss) Sales of machinery and equipment, if its operation, function or purpose is an integral or essential part of a continuous production flow or process of manufacturing printed material to be sold and such machinery and equipment is used exclusively for that purpose; and sales of prepress items which are used exclusively as part of a continuous production flow or process of manufacturing printed material to be sold.

SECTION 132. Section 34 of chapter 64I of the General Laws, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following sentence:- Such claims for reimbursement, covering the amount of the excise paid on accounts determined to be worthless in the vendor's prior fiscal year, shall be filed on or before the due date, including extensions, of the federal income tax return or annual federal filing in the case of an exempt organization for such prior fiscal year.

SECTION 133. Subsection (d) of section 10 of chapter 66 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out the last paragraph and inserting in its place the following paragraph:-

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of social services, department of correction and any other public safety and criminal justice system personnel shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.

SECTION 134. Section 1 of chapter 69 of the General Laws, as so appearing, is hereby amended by inserting after the word "children", in line 3, the following words:- , including a school age child with a disability as defined in section 1 of chapter 71B.

SECTION 135. Section 1A of said chapter 69, as so appearing, is hereby amended by inserting after the seventh paragraph the following four paragraphs:-

The commissioner shall provide guidelines and ongoing training for school districts and charter schools in order to ensure the quality of student evaluations conducted pursuant to the provisions of section 3 of chapter 71B.

The commissioner shall monitor the implementation of independent evaluations of students with disabilities.

The commissioner shall assess the effectiveness of special education programs developed by school districts and charter schools pursuant to chapter 71B and shall supervise and monitor on an on-going basis: (i) the compliance of school districts and charter schools in adhering to the standards for evaluating students pursuant to the provisions of said chapter 71B; (ii) the compliance of school districts and charter schools in fully implementing the educational program recommendations required by individual educational plans of students with disabilities; (iii) the educational results of services provided by school districts and charter schools pursuant to the provisions of said chapter 71B; (iv) the collection and analysis of data reported by school districts and charter schools regarding educational programs offered pursuant to the provisions of said chapter 71B.

The commissioner shall collect and analyze data reported by school districts regarding educational programs offered pursuant to the provisions of chapter 71A.

SECTION 136. Section 1B of said chapter 69, as so appearing, is hereby amended by inserting after the word "trust", in line 71, the following words:- and such guidelines shall, where appropriate, give preference to school districts and educational collaboratives, provided said school districts and educational collaboratives are developing programs to educate children with disabilities together with children without disabilities in programs located in regular education school buildings which are chronologically age-appropriate, as an incentive for the formation of inclusive educational programs.

SECTION 137. Section 1I of said chapter 69, as so appearing, is hereby amended by inserting after the sixth paragraph the following paragraph:-

Each school district in which more than 20 per cent of the students score below level two on the Massachusetts Comprehensive Assessment System exam, in this paragraph called MCAS, shall submit an MCAS success plan to the department. The plan shall describe the school district's strategies for helping each student to master the skills, competencies and knowledge required for the competency determination described in subparagraph (i) of the fourth paragraph of section 1D. The department shall determine the elements that shall be required to be included in such plan. These elements may include, but are not limited to, the following: (a) a plan to assess each student's strengths, weaknesses and needs; (b) a plan to use summer school, after school and other additional support to provide each child with the assistance needed; and (c) a plan for involving the parents of students as described in said subparagraph (i) of said fourth paragraph of said section 1D. The department shall examine each district's plan and determine if it has a reasonable prospect of significantly reducing the school district's failure rates. The department shall coordinate oversight of the MCAS success plans with existing audit and oversight functions and with the MCAS grant program.

SECTION 138. Said section 1I of said chapter 69, as so appearing, is hereby further amended by inserting after the eighth paragraph the following two paragraphs:-

Each school district and charter school shall file an annual report for the current school year regarding implementation of chapter 71B with the department every November 1 first in a format determined by the board. The report shall include, but not be limited to, the following:-

(a) the number of children receiving services pursuant to said chapter 71B within each disability category as set forth in section 1 of said chapter 71B;

(b) the number of children, by grade level, within each such disability category and the costs of services provided by each such category for such children receiving their education in a publicly operated day school program;

(c) the number of children, by grade level, within each such disability category and the costs of services provided by each such category for such children receiving their education in a private day setting;

(d) the number of children, by grade level, within each such disability category and the costs of services provided by each such category for such children receiving their education in a private residential setting;

(e) the number of children who remain in the regular education program full time; the number of children who are removed from the regular classroom for up to 25 per cent of the day; the number of children who are removed from the regular classroom between 25 and 60 per cent of the day;

(f) the number of children who are placed in substantially separate classrooms on a regular education school site;

(g) the number of children, ages three and four, who are educated in integrated and separate classrooms; and the assignment by sex, national origin, economic status, race and religion, of children by age level to special education classes and the distribution of children residing in the district by sex, national origin, economic status, race and religion of children by age level; and

(h) the number of children, by grade level, receiving special education services who have limited English proficiency.

Each school district and charter school shall furnish in a timely manner such additional information as the department shall request.

SECTION 139. Chapter 70 of the General Laws is hereby amended by striking out section 4, as so appearing, and inserting in place thereof the following section:-

Section 4. There is hereby established a foundation budget review commission to review the way in which foundation budgets are calculated and to make recommendations to the general court regarding such changes in the formula as may be appropriate. In conducting such review, the commission shall seek to determine the educational programs and services needed to prepare students to achieve passing scores on the Massachusetts Comprehensive Assessment System. The commission shall examine the assumed percentage for special education costs included in such formula and shall make recommendations regarding changes in such percentage or other mechanisms to finance special education costs including, but not limited to, reimbursement programs or phased-in, standards-based funding programs that increase the state contribution to such costs over a fixed period of years. The commission shall include the house and senate chairs of the joint committee on education, arts and humanities, who shall serve as co-chairs, the commissioner of education, the chair of the education reform review commission, the speaker of the house of representatives or his designee, the president of the senate or his designee, the

minority leader of the house of representatives or his designee, the minority leader of the senate or his designee, the governor or his designee, the chair of the house committee on ways and means or his designee, the chair of the senate committee on ways and means or his designee and one member to be appointed by each of the following organizations: the Massachusetts Municipal Association, the Massachusetts Business Alliance for Education, the Massachusetts Association of School Committees, the Massachusetts Superintendents Association, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, the League of Women Voters of Massachusetts, the Massachusetts Association for Vocational Administrators and the Massachusetts Association of Regional Schools. Members shall receive no compensation for their services but may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission. The department shall furnish reasonable staff and other support for the work of the commission.

The commission shall conduct not fewer than four hearings to receive testimony from members of the public. The hearings shall be held in locations that provide opportunities for residents from all geographic regions of the commonwealth to testify.

It shall not constitute a violation of chapter 268A for a person employed by a school district to serve on the commission or to participate in commission deliberations that may have a financial impact on the district employing such person or on the rate at which such person may be compensated. The commission may establish procedures to ensure that no such person participates in commission deliberations that may directly affect the school districts employing such persons or that may directly affect the rate at which such persons are compensated.

The commission's recommendations, together with any proposed legislation, shall be filed not later than September 30 of each even-numbered year with the clerks of the senate and house of representatives who shall refer such recommendations to the appropriate committee of the general court. Within 30 days after such filing, the committee shall hold a public hearing on the recommendations.

SECTION 140. The General Laws are hereby further amended by inserting after chapter 70A the following chapter:-

CHAPTER 70B.

SCHOOL BUILDING ASSISTANCE PROGRAM.

Section 1. Whereas the school building assistance program is the largest capital grant program operated by the commonwealth and is necessary for the establishment of public school buildings in the commonwealth; and whereas the costs of the school building assistance program are increasing at an unsustainable rate and local governments need flexibility in school building assistance to ensure that local needs for school facility space, downtown development, open space and community space are met; and to promote the thoughtful planning and construction of school facility space in order to insure safe and adequate plant facilities for the public schools, and to assist towns in meeting the cost thereof, there is hereby established within the department of education a school building assistance program.

Section 2. For the purposes of this chapter, the following words shall have the following meanings:-

"Advisory board", the school building advisory board.

"Alternatives to construction", approved school facilities projects that do not include capital construction, major reconstruction or building renovation, but no alternative project shall be reimbursed if it is determined by the board to be more costly than construction necessary to achieve the same end.

"Approved school project", any capital construction or major reconstruction; lease of buildings or modular facilities; arrangements with higher education facilities or other nonprofit or municipal entities; year-round schooling to prevent overcrowding; use of swing space between school buildings in the district; tuition arrangements with other school districts to prevent overcrowding, provided, however, that the cost of tuition arrangements in existence prior to project application shall not be eligible for reimbursement as an approved school project; or other school facilities project as may be approved by the board, which: (a) is determined by the board to be necessary to meet educational standards, as promulgated by the board, for anticipated enrollment levels, and (b) conforms to the following provisions: that each capital construction or renovation component of said project has an expected useful life, as determined by the board, of at least seven years and also of at least the period for which any debt obligations undertaken to finance said project will remain outstanding. An approved school project shall not include a project in a school that has had a project approved pursuant to this chapter or to chapter 645 of the acts of 1948, within ten years before the project application date or project commencement, whichever is earlier, unless such previously approved project was a major reconstruction project or unless the board determines that the requested school project is unrelated to such previously approved projects in the same school.

"Assisted facility", a school facility that has received a total facilities grant pursuant to this chapter.

"Board of education" or "board", the board of education established by section 1E of chapter 15.

"Capital construction project", any capital project, other than a major reconstruction project, for the construction, the enlargement or original equipping of any public schoolhouse in any city or town, or a project for the renovation or partial renovation of an existing structure for use as a schoolhouse; or the renovation or partial renovation of an existing schoolhouse.

"Commissioner", the commissioner of education or his designee.

"Construction manager", construction manager as defined by section 38A½ of chapter 7.

"Eligible applicant", a city, town, regional school district or independent agricultural and technical school.

"Energy efficient construction rating", rating given to eligible applicants by the board based upon a determination that the construction techniques of an approved school project meet or exceed energy efficiency standards established by the board of building regulations and the National Institute of Standards and Technology and which meet the purposes of subsection (c) of section 4E of chapter 40J.

"Innovative community use", approved school facilities projects that combine community resources to streamline the costs of and utilize other funding sources for the facilities project.

"Maintenance rating", rating given to schools and school districts by the board, based on a maintenance assessment conducted by the board.

"Major reconstruction project", any capital school facilities or extraordinary maintenance project including, but not limited to, the replacement of a roof or heating plant if it is determined by the board that such project has not been necessitated, in whole or in part, by the failure of an eligible applicant to make adequate and prudent provisions for the care and maintenance of said school.

"Nonstate fundraising", third party monies made available to the eligible applicant for approved school facilities projects including, but not limited to, private donations and federal grants.

"Project manager", a person designated or assigned by an eligible applicant, and approved by the board, to manage and coordinate daily administration of a school facility or building project to completion including, but not limited to, school district or municipal staff person or a volunteer with appropriate experience and expertise.

"Prototypical school plans", school building project architectural designs and plans collected and maintained by the board for consultation by eligible applicants.

"Regional school", any public school established under law by the action of two or more cities or towns. For the purposes of this chapter, the agricultural schools maintained by the counties of Bristol and Norfolk shall be deemed to be regional schools.

"Regional school district", any instrumentality of the commonwealth, established by two or more cities and towns for the purpose of operating a regional school.

"Total facilities grant", the grant representing the commonwealth's total contribution to an approved school project and which is calculated as follows: In the case of a grant for an approved project of a city or town, the total facilities grant shall be the product of multiplying the final approved costs of such project, including costs referred to in section 4, by the reimbursement percentage determined pursuant to section 10 for the year in which the project is approved.

(1) In the case of a grant for an approved project of a regional school district or a county, the total facilities grant shall be the sum of the grants computed separately for each city and town which is a member of said regional school district or located in said county as hereinafter provided. For purposes of this computation, each member city's and town's share of the combined grant shall be equal to the total approved project cost, including costs referred to in section 4, multiplied by the product of the reimbursement percentage listed in subsection (a) of section 10, multiplied by the percentage of district or county capital costs that would be apportioned to such city or town in accordance with the applicable regional school district agreement or law for capital costs incurred in the fiscal year in which the grant is approved. The amount of the total capital costs apportioned to a member city or town in any fiscal year on account of an approved school project of a regional school or county, determined in accordance with the applicable regional school district agreement or law, shall be reduced by an amount equal to the amount of the grant payable on account of such project in such fiscal year multiplied by a fraction the numerator of which is the city's or town's reimbursement percentage, determined as aforesaid, multiplied by the percentage of capital costs apportioned to the city or town for such fiscal year in accordance with the applicable regional school district agreement or law and the denominator of which is the sum of the percentages so derived as the numerators for all of the member cities and towns.

(2) In the case of a grant for an approved project of an independent agricultural and technical school, the total facilities grant shall be the sum of the grants computed separately for each city and town in which students of said school reside averaged by means of a weighted average multiplied by the final approved costs.

Section 3. There is hereby established, within the department of education, a school building assistance program. The purpose of said program is generally to encourage and foster the thoughtful establishment and maintenance of school facility space in and among the cities and towns of the commonwealth; to conduct surveys and studies relative thereto; and to administer the provisions of this chapter relative to grants to cities and towns for the planning and construction of school building and school facility projects.

The board, shall establish general policy and review standards regarding school building construction, renovation, maintenance and facility space, administer the school building assistance program in accordance with this chapter and coordinate the distribution of school facilities grants in accordance with this chapter. The board shall be responsible for the oversight and management of the school building assistance program as established herein and referred to hereafter as the "program". In carrying out its duties, the board shall be guided by the following principles: preservation of open space and minimization of loss of such open space; emphasis on thoughtful community development; and project flexibility that addresses the needs of individual communities and municipalities.

Specific powers of the board shall include, but not be limited to, the following:

(a) review, approve or deny grant applications, waivers and other requests submitted to the program; review, approve and recommend changes to grant payment schedules or suspend said schedules for program projects such as refinancings, audit findings and such other circumstances that may warrant such action;

(b) provide architectural or other technical advice and assistance, training and education, to cities and towns or to joint committees thereof and to general contractors, subcontractors, construction or project managers, designers and others in the planning, maintenance and establishment of school facility space;

(c) recommend to the general court such legislation as it may deem desirable or necessary to further the purposes of this chapter;

(d) develop a formal enrollment projection model or consider using projection models already available;

(e) receive gifts and grants;

(f) enter into contracts;

(g) receive, distribute and expend state and federal funds subject to appropriations;

(h) develop a project priority system;

(i) collect and maintain a clearinghouse of prototypical school plans which may be consulted by eligible applicants;

(j) determine eligibility of cost components of projects for reimbursement, including partial or full eligibility for project components for which the benefit is shared between the school and other municipal entities;

(k) establish appropriate rules and regulations as may be necessary to carry out the purposes of this chapter;

(l) prepare an annual budget for the administration of the program;

(m) collect and maintain data on all the public school facilities in the commonwealth, including information on size, usage, enrollment, available facility space and maintenance; and

(n) do all things necessary or convenient to carry out the purposes of this chapter.

The board may, subject to appropriation, employ such assistants, experts, clerks and other employees as it may deem necessary to carry out the provisions of this chapter.

Section 3A. There is hereby established a school building advisory board which shall be comprised of the following members or their designees: the state treasurer; the auditor of the commonwealth; the secretary for administration and finance; the commissioner of capital asset management and maintenance; the deputy commissioner of revenue responsible for the division of local services; the secretary of environmental affairs; the director of housing and community development; the commissioner of public health and one member appointed by the governor from a list of candidates submitted by the Massachusetts Association of School Committees.

The advisory board shall assist the board of education in the development of general policy regarding school building construction, renovation, reconstruction, maintenance and facility space and provide technical advice and input to the board on matters relating to school building construction, renovation, reconstruction, maintenance and facility space. Said advisory board shall review and comment upon pending applications and ongoing approved projects.

Section 4. Any eligible applicant may apply to the board for reimbursement, in whole or in part, of any expenses incurred for educational, engineering and architectural services incidental to the planning of a regional school or any expenses incurred for surveys made of school building needs and conditions, the contract for which has been approved by the board. Such application shall be accompanied by information and documentation that the board may require. The board may, if the expenses so incurred are reasonable, certify to the comptroller for payment to such eligible applicant such amount, not exceeding such expenses, as it may deem proper, and the state treasurer shall forthwith make the payments so certified from any funds appropriated therefor.

Section 5. (a) Any eligible applicant may apply to the board for a school facilities grant to meet in part the cost of an approved school project. Such cost shall include the entire interest paid or payable by such city, town or regional school district on any bonds or notes issued to finance such project, as well as any premiums, fees or charges for credit or liquidity enhancement facilities or services issued or rendered to any such city, town or regional school district. Such costs shall also include all costs and legal fees to enforce rights on any contracts for the construction of an approved school project. Such application shall be in the form prescribed by the board and shall be accompanied or supplemented by drawings, plans, estimates of cost and proposals for defraying such costs or any such additional information as the board may require, before construction is undertaken. Notwithstanding any provision of this chapter to the contrary, in the event that an eligible applicant undertakes construction before approval is obtained, said eligible applicant shall remain subject to the board's approval process as if such construction were not undertaken. Notwithstanding the provisions of section 11 and in the event that the board approves a capital construction project on which construction is undertaken prior to board approval, payments for said project shall begin in the fiscal year next following the fiscal year in which the project receives board approval.

(b) Any eligible applicant who is eligible for aid under the provisions of this chapter and establishes extended courses of instruction in a vocational school, as provided in section 37A of chapter 74, and wishes to enlarge or construct a school for the purpose of maintaining such extended courses of instruction on a technical institute level shall be eligible for financial assistance in the construction or enlargement of such school in the manner and to the extent provided by this chapter.

(c) A project shall become an approved school project, upon approval of the board in accordance with the provisions of this chapter. Board approval shall be contingent upon certification by the commissioner of education that adequate provisions have been made for children with disabilities, as defined in section 1 of chapter 71B, and, in the case of elementary facilities, that adequate provisions consistent with local policy have been made for all-day kindergarten, pre-kindergarten classes and for extended day programs, provided, however, that no district shall be required to adopt such classes or programs.

Section 6. (a) Upon receipt of an application under the provisions of section 5, the board shall examine forthwith such application and any facts, estimates or other information relative thereto, and shall determine whether the proposed project is in the best interests of the

commonwealth and the eligible applicant, with respect to its site, type of construction, sufficiency of accommodations, open space preservation, urban development, urban sprawl and otherwise. In determining whether the proposed project is in the best interests of the commonwealth, the board shall consider the availability of funds under section 7, the order of priorities under section 8 and the construction procedures and standards under section 9. If, in its opinion, such proposed project should be undertaken, the board shall determine the estimated approved cost of such project, which cost may be equal to the estimated cost furnished by such eligible applicant or a lesser amount, and compute the amount estimated of facilities grant to which the applicant would be entitled under section 10, such computation being based on said approved cost.

(b) Within a reasonable time after receipt of such application the board shall notify such applicant of its approval or rejection therefor, and, in the event of its rejection, of the reasons therefor. Notice of approval hereunder shall be accompanied by a statement of the estimated approved cost as determined by the board, and an estimate of the amount of total facilities grant to which such eligible applicant may be entitled under the provisions of said section 10.

(c) The final approved cost shall be determined by the board within a reasonable time after the acceptance of the completed project by the local school committee.

(d) Payments shall be determined based on the final approved cost.

(e) Any city or town which has received, in accordance with the provisions of this section, notice of approval and an estimate of the amount of school facilities grant to which such city or town may be entitled, may borrow from time to time for said approved school project an amount not exceeding said estimated grant, or such larger amount as may be approved by the emergency finance board established under section 47 of chapter 10, and may issue bonds or notes therefor which shall bear on their face the words (name of city or town) School Project Loan, chapter 70B. Each authorized issue shall constitute a separate loan and such loans shall be paid in not more than 20 years from their dates. Indebtedness incurred under this act shall be in excess of the provisions of chapter 44, exclusive of the limitation contained in the first paragraph of section 7 of said chapter 44.

(f) If the determination of the final approved cost is delayed because the construction is not completed, the payments preceding determination of the final approved cost may be based upon the estimated approved cost, and adjustment shall be made in the payment or payments which are made subsequent to the determination of final approved costs.

Section 7. (a) Before approving any school project, the board shall determine (1) the amount of the first annual estimated payments on such projects and (2) the fiscal year in which it is anticipated that the first annual estimated payments would be paid. The aggregate amount of such first annual estimated payments for projects approved by the board in any fiscal year shall not exceed such amount as may be duly authorized therefor as a part of an annual general or supplemental appropriation act or otherwise. For the purposes of this section, a "first annual estimated payment" shall be the amount of the first annual estimated payment made by the commonwealth on behalf of an eligible applicant which results from the approval of a school facilities project.

(b) In each fiscal year there shall be appropriated on account of the provisions of this chapter four separate items in accordance with the following clauses: (1) an amount to provide for the first annual payment on any school facilities project approved on or after the effective date of this chapter; (2) an amount required for payments in the fiscal year on account of grants and reimbursements for educational, engineering and architectural services for regional schools

and for surveys made of school building needs and conditions as set forth in section 4; (3) an amount required for annual payments to be made in the fiscal year on account of school facilities projects approved by the board prior to the effective date of this chapter and all other projects approved after said date on which the first annual payment has been made; and (4) for buildings which are structurally unsound or otherwise in a condition jeopardizing the health and safety of school children, where no alternative exists.

(c) Before approving any school project under this chapter, which is to be financed through the alternative funding mechanism set forth in section 12, the board shall determine that if the project under consideration is approved, the commonwealth's aggregate payments on such projects shall not exceed the amount of indebtedness which the commonwealth has authorized for such projects.

Section 8. The board shall approve school projects and reimbursements under this chapter in accordance with the following order of priorities:

(1) priority shall be given to school projects needed in the judgment of said board to replace or renovate a building which is structurally unsound or otherwise in a condition seriously jeopardizing the health and safety of school children, where no alternative exists;

(2) priority shall be given to school projects to eliminate existing severe overcrowding;

(3) priority shall be given to school projects needed in the judgment of said board to prevent loss of accreditation;

(4) priority shall be given to school projects needed in the judgment of said board to prevent severe overcrowding expected to result from increased enrollments which must be substantiated;

(5) priority shall be given to projects needed in the judgment of said board for the replacement, renovation or modernization of the heating system in any schoolhouse to increase energy conservation and decrease energy related costs in said schoolhouse;

(6) priority shall be given to any school project needed in the judgment of said board for short term enrollment growth;

(7) priority shall be given to school projects needed in the judgment of said board to replace or add to obsolete buildings in order to provide for a full range of programs consistent with state and approved local requirements; and

(8) priority shall be given to projects needed in the judgment of said board to transition from court-ordered and board approved racial balance school districts to walk-to, so-called, or other school districts.

Notwithstanding the provisions of section 6, the board may defer its approval or disapproval of any project application if such deferral is necessary for the effective implementation of the provisions of this section. The board may issue regulations to define the procedures pursuant to which the priorities established by this section will be implemented. Notwithstanding the foregoing, the board shall not approve any project for any school district which fails to spend in the year preceding the year of application at least 50 per cent of the sum of said school district's calculated foundation budget amounts for the purposes of foundation utility and ordinary maintenance expenses, and extraordinary maintenance allotment as defined in chapter 70, for said purposes. From fiscal year 1999 forward, no school district shall be approved for a project nor receive school facilities funds unless said district has spent at least 50 per cent of the sum of said district's calculated foundation budget amounts in each of the fiscal years including and succeeding fiscal year 1999. All projects which received first school building assistance payments prior to July 1, 2000 shall be exempted from the provisions of this

paragraph. Upon a request of a school district, the board may grant a waiver from said requirement for unanticipated or extraordinary changes in maintenance spending as determined by said departments including, but not limited to, the impact on said spending due to the opening of a new school building, the closing of an existing school building or the completion of a major renovation project.

Section 9. (a) In order to maximize the cost effective production of efficient and creative school projects, the board shall require that every school project conform to the following standards and procedures: (1) that the applicant fully consider all available options for satisfying the described need, including tuition agreements with adjacent school districts, rental or acquisition and any necessary rehabilitation or usage modification of any existing building which could be made available for school use; (2) that the applicant's site selection is based on the cost and environmental factors, including an awareness of soil conditions and their probable effect on foundation and site development costs, transportation effects, dislocation of site occupants and relationship to other community facilities; (3) that the applicant enter into contracts, using forms satisfactory to the board for such competent architectural, engineering and other services as may be required; and (4) that procedures satisfactory to the board are followed by the applicant throughout the planning and construction of the project such as will assure maximum attention to the operating and capital cost effects of program and design decisions, materials and systems selections.

(b) The board shall issue annually, as hereinafter provided, maximum eligible cost standards and size standards for school projects. These standards may take into account the type and location of a proposed school project and may also take into account the difficulty of siting school facilities in dense urban areas in which there exists a shortage of available municipally-owned sites and the increased cost of construction and major renovation in such urban areas. The program standards shall define prototype school design and space recommendations for each specified program activity eligible for state financial assistance. The program standards shall, in the judgment of the board, be in conformity with the minimum requirements of state law and shall also reflect consideration of cost effects, prevailing educational standards in the commonwealth and the needs of efficient and creative school projects. The cost standards shall be based on the price experience of recently completed and recently bid school projects, taking into account the cost effectiveness of design, construction and programming techniques utilized in such school projects. For the purpose of calculating the total construction grant under section 10, the estimated approved cost and the final approved cost for a school project shall not exceed the cost that would result if the project conformed to prototype school standards. The provisions of this section shall not be deemed to preclude an eligible applicant from exceeding prototype school standard; provided, however, the cost of such additional facilities and design shall not be included in the estimated cost and final approved cost on the basis of which the state construction grant is calculated.

(c) After compliance with section 3 of chapter 30A, the board shall not later than the first day of March in each year adopt interim regulations, including minimum program standards and maximum cost standards, for the implementation of this section. Upon the adoption of such regulations, the commission shall forthwith file copies thereof with the clerk of the house of representatives who shall refer such regulations to an appropriate committee of the general court. Within 30 days after such filing, said committee may hold a public hearing on the regulations, shall issue a report, and file a copy thereof with the board. Said board shall adopt final regulations making such revisions in the interim regulations as it deems appropriate in view of

such report and shall forthwith file a copy of the regulations with the chairperson of the committee of the general court to which the interim regulations were referred. Not earlier than 30 days after the date of such filing, the board shall file the final regulations with the state secretary and the said regulations shall thereupon take effect.

Section 10. From time to time, the commissioner shall certify to the comptroller, and the state treasurer shall, within 30 days after such certification, pay to the several cities, towns and regional school districts from any amounts appropriated therefor, the amounts due them in accordance with approved school facilities grants. The total facilities grant to be paid to eligible applicants on account of projects approved after the effective date of this chapter shall be based on the following formula but no grant shall be approved for any amount less than 50 per cent nor greater than 90 per cent of total approved project costs.

(a) The percentage the commonwealth shall pay towards an approved school facilities project shall be determined by the following formula: Base Percentage (A) + Community Income Factor (B1) + Community Property Wealth Factor (B2) + Community Poverty Factor (B3) + Incentive Percentage (C).

(A) Base Percentage = 39 percentage points.

(B) Ability to pay percentage points (income/wealth factor) is determined as follows:

(1) Community Income Factor = per capita income, as determined by the department of revenue, for a municipality as a per cent of the statewide average per capita income.

The Community Income Factor is then determined by using the chart below.

Income	
<u>Municipality's per capita income as per cent of statewide average per capita income</u>	<u>Community income factor percentage points</u>
0 -9%	12.00
10-19%	11.37
20-29%	10.74
30-39%	10.11
40-49%	9.47
50-59%	8.84
60-69%	8.21
70-79%	7.58
80-89%	6.95
90-99%	6.32
100-109%	5.68
110-119%	5.05
120-129%	4.42
130-139%	3.79
140-149%	3.16
150-159%	2.53
160-169%	1.89
170-179%	1.26
180-189%	0.63
190% +	0.00

(2) Community Property Wealth Factor = Equalized property valuation per capita as determined by the department of revenue, for the municipality as a per cent of the statewide average equalized property valuation per capita.

The Community Property Wealth Factor is then determined by using the chart below.

Equalized Property Valuation

<u>Municipality's EQV as per cent of statewide average EQV</u>	<u>Community property wealth factor percentage points</u>
0 -9%	28.00
10-19%	26.53
20-29%	25.05
30-39%	23.58
40-49%	22.11
50-59%	20.63
60-69%	19.16
70-79%	17.68
80-89%	16.21
90-99%	14.74
100-109%	13.26
110-119%	11.79
120-129%	10.32
130-139%	8.84
140-149%	7.37
150-159%	5.89
160-169%	4.42
170-179%	2.95
180-189%	1.47
190% +	0.00

(3) Community Poverty Factor = Proportion of low income students, as determined by federal eligibility for free or reduced price lunch, for the district as a per cent of the statewide average proportion of low income students.

The Community Poverty Factor is then determined by using the chart below.

Poverty

<u>School district proportion of low income students as per cent of state average proportion of low income students</u>	<u>Community poverty factor percentage points</u>
0-99%	0.00
100-102%	1.42
103-105%	2.83
106-108%	4.25
109-111%	5.67
112-114%	7.08
115-117%	8.50
118-120%	9.92
121-123%	11.33
124-126%	12.75
127-129%	14.17
130-132%	15.58

133%+

17.00

(C) Incentive percentage points are determined as follows. Each time an eligible participant submits a project application the board shall assess the school buildings in the school district and the prospective project to determine incentive percentage points for the applicant. The incentive percentage points shall have the following weight.

Incentive Percentage Points	
<u>Category</u>	<u>Percentage points granted</u>
Excellent Maintenance rating	8
Good Maintenance rating	4
Poor Maintenance rating	0
Alternatives to Construction	4
Renovation/Reuse Proposals	5
Major Reconstruction	4
New Construction	0
Innovative Community Use	3
Energy efficiency meets industry standards	2
Non-State Fundraising	.5 for every 1% of project cost raised
Use of Construction/Project Manager	2

(b) In the case of regional school districts, B1 and B2 shall be determined by calculating the relationship to the statewide average for each municipality of the regional district as stated in this section. For purposes of this computation, each member city's and town's share of the total cost shall be determined by multiplying the total approved cost by the percentage of district or county capital costs that would be apportioned to such city or town in accordance with the applicable regional school district agreement or law for capital costs incurred in the fiscal year in which the grant is approved. The amount of the total capital costs apportioned to a member city or town in any fiscal year on account of an approved school project of a regional school or county, determined in accordance with the applicable regional school district agreement or law, shall be reduced by an amount equal to the amount of the grant payable on account of such project in such fiscal year multiplied by a fraction the numerator of which is the city's or town's reimbursement percentage, determined as aforesaid, multiplied by the percentage of capital costs apportioned to the city or town for such fiscal year in accordance with the applicable regional school district agreement or law, and the denominator of which is the sum of the percentages so derived as the numerators for all of the member cities and towns.

In the case of independent agricultural and technical schools, B1 and B2 shall be determined by calculating the relationship to the statewide average for each municipality of the school as stated in this section. A weighted average will then be determined for these municipalities, weighted as compared to the number of students attending the school from each member municipality, which will be used to determine the final B1 and B2 factors.

(c) In addition to the provisions of this section, districts which have a racial desegregation plan approved by the board by June 30, 2000 shall have added 10 percentage points to their project reimbursement rate as calculated above for projects which have received a favorable vote, for design or construction, by the city council and mayor or town meeting by

June 30, 2005, and for which all necessary application procedures have been completed, in such form as may be required by the board, not later than June 30, 2006. Said districts shall have added 5 percentage points to their project reimbursement rate as calculated above for projects which have received a favorable vote, for design or construction, by the city council and mayor on town meeting by June 30, 2011, and for which all necessary application procedures have been completed, in such form as may be required by the board, after June 30, 2006 and not later than June 30, 2012. The total reimbursement rate shall in no circumstances exceed 90% of approved project costs.

Section 11. (a) In the case of any approved school project to be financed in whole or in part from the proceeds of any sale of bonds or notes, the total facilities construction grant shall be paid annually in equal parts to be determined by dividing the total grant by the number of years during which any indebtedness is incurred for such project, provided, however, that if such number of years is less than five, the total grant shall be paid annually in five equal parts, and the payments hereinabove provided for shall begin in the next fiscal year next following the fiscal year in which the construction of such project has been commenced. In the case of any approved school project which is not to be financed from the proceeds of any sale of bonds or notes, the total grant shall be paid annually in five equal parts beginning in the calendar year in which the construction of such project has been commenced.

(b) Notwithstanding any provisions to the contrary contained in the preceding paragraph, in the case of any approved school project of a city or town for which \$75,000 or more has been appropriated from its stabilization fund under the provisions of section 5B of chapter 40 or, in the case of an approved school project of a regional school district for which \$75,000 or more has been appropriated in the aggregate by the member towns from their stabilization funds, the total construction grant shall be paid in the following manner: a sum equal to the amount so appropriated shall be paid in the year in which construction of such project has been commenced, such payment to be called the matching stabilization fund payment, but in no event shall such payment exceed \$100,000 or three-fourths of the estimated amount of the construction grant, whichever is less, and the remainder of such construction grant shall be paid annually in equal parts to be determined by dividing such remainder by the number of years during which any indebtedness incurred for such project shall remain outstanding; provided, however, that if such number of years is less than five, or if the project is not to be financed from the proceeds of any sale of bonds or notes, such remainder shall be paid annually in five equal parts; and in the case of a project for which indebtedness is incurred, the annual payments hereinabove provided shall begin in the calendar year in which the construction of such project has been commenced. The provisions of this paragraph shall not apply unless the amount appropriated from the stabilization fund for the school project or the aggregate amount appropriated therefor from the stabilization funds of all the member towns of a regional school district was contained in such fund or funds on December 31 of the year next prior to the date of the appropriation therefrom. The entire matching stabilization fund payment shall be applied to the cost of the school project; but whenever a project has been approved by the board, the treasurer of the city, town or regional school district, with the approval of the mayor, selectmen or regional district school committee may incur debt outside the debt limit in anticipation of the proceeds of such payment and may issue notes therefor payable in not more than one year from their dates. Any such loan issued under this paragraph for a shorter period may be refunded by the issue of other notes maturing within one year from the date of the original loan being refunded.

Section 12. (a) Any city or town which is newly admitted to a regional school district may be reimbursed by the board for part of the amount which such city or town is required to pay for such admission, subject to the limitations and in the manner prescribed by this section. The board shall: (1) determine the cost of constructing and originally equipping the regional school building, including the cost of any additional constructed thereto. Included in such cost shall be (a) the cost of construction, either under this chapter or as determined by the board, or the most recently estimated cost of construction in the case where no such final cost of construction has been determined and (b) other capital and maintenance costs not to exceed 5 per cent of the costs in clause (a) as may be allowed by the board, and (c) the interest costs incurred on account of borrowing for the purpose of financing said school construction. Upon the determination of the above sum, the board shall deduct the amount of state aid paid to the regional school district on account of such construction and other capital costs; (2) determine the cost per student of such construction and other capital cost dividing the cost figure arrived at in subsection (1) by the number of students the buildings and additions, if any, can safely and adequately accommodate as determined by the board; and (3) determine the number of new students to be accommodated because of the admission of the new member city or town and that number, multiplied by the cost per student arrived at in subsection (2) shall comprise the maximum approvable amount upon which the board shall base its grant for reimbursement to the newly admitted member, but if the amount which the newly admitted member is required to pay to the regional school district as a condition of membership is less than the maximum approvable amount upon which the board shall base its grant amount as determined above, the lesser amount shall be the maximum approvable amount upon which the board shall base its grant for reimbursement to the newly admitted member.

(b) The amount required to be paid to the regional school district by the newly admitted member as a condition of membership may be paid in equal annual payments made over a period of time, as specified in the amendment to the regional school district agreement by which the new member was admitted to the regional school district and approved by the commissioner of education.

(c) Any such city or town acquiring membership in an existing regional school district shall receive a grant based upon a percentage of the amount determined to be the base amount upon which the state reimbursement shall be computed as prescribed above. The percentage to be applied against such amount shall be the greater of, (1) the percentage applicable to the district as determined under subsection (a) of section 10, or (2) the percentage applicable to the district as determined under said subsection (a) as though such city or town were a member of the district.

(d) The grant shall be paid to such city or town in equal annual payments, over the same number of years during which such city or town is required to pay the amount of its admission, as specified in the amendment to the regional school district agreement by which city or town was admitted, but in no case shall the number of annual payments by the commonwealth be fewer than 5 nor more than 20. Such annual payments shall be certified by the board to the comptroller and the state treasurer shall, within 30 days after such certification, apply to such city or town the amount due from any funds which have been appropriated for the payment of annual payments to cities, towns and regional school districts.

(e) In instances where the board determines that enlarged or additional facilities are required in an existing regional school district to accommodate students of a city or town acquiring membership in said existing regional school district under this section, any

construction grant awarded by the board shall be based upon the greater of (1) the percentage applicable to the district as determined under section 10 as though such city or town were not a member of the regional school district, or (2) the percentage applicable to the district as determined under said section 10 as though such city or town were a member of the district. The provisions of this section shall apply to amendments to regional school agreements approved on or after January 1, 1981.

Section 13. Notwithstanding section 17 of chapter 44, the officers of a city, town or regional school district authorized to issue bonds, notes or certificates of indebtedness for a school construction project for which it has received notice that it has filed a completed school building assistance application with the department of education in such form as prescribed by the board and that the project has been placed on the school building assistance priority list, so-called, may refund, by the issuance of refunding notes, a temporary loan issued in anticipation of money to be derived from the sale of such bonds, notes or certificates, but the period from the date of issue of the original temporary loan to the final maturity of any such refunding notes shall not exceed five years. The refunding notes shall not be required to be paid in part from revenue funds of the city, town or regional school district until the end of the fiscal year following the fiscal year in which the board of education approves the project for a school construction grant pursuant to the provisions of chapter 645 of the acts of 1948 or this chapter. The time within which the serial bonds, notes or certificates of indebtedness issued to pay refunding temporary notes issued hereunder shall be due and payable shall be extended by the period from the date of the original temporary loan to: (a) the date of issue of such serial bonds, notes or certificates; or (b) the end of the fiscal year in which the board of education approves the project for a school construction grant, whichever date is earlier.

Section 14. For approved projects that are an alternative to construction or renovation, the board shall establish eligible cost criteria, and on a case by case basis, shall determine the allowable cost of the project. Eligible costs may include but shall not be limited to furnishings and equipment, lease costs, rental fees, tuition costs and transportation costs. In no event shall an alternative project be reimbursed if it is determined by the board to be more costly than construction necessary to achieve the same end.

Section 15. (a) In the event that an eligible applicant, sells or leases an assisted structure or facility, on account of which it is receiving grant payments, pursuant to this chapter or pursuant to chapter 645 of the acts of 1948, the net proceeds from the sale or lease shall be divided between the commonwealth and the general funds of the eligible applicant involved, in proportion to the commonwealth's prior investment in the assisted structure or facility under the provisions of this chapter, or under the provisions of chapter 645 of the acts of 1948, as applicable. The commonwealth's share of the net proceeds shall reduce the balance of outstanding grant payments that would otherwise be payable except for the provisions of this section and shall not exceed such amount. Any eligible applicant which sells, leases or otherwise removes from use by said eligible applicant as a schoolhouse any approved school project on account of which it is receiving grant payments, pursuant to this chapter, or chapter 645 of the acts of 1948, shall report such sale, lease or removal to the commissioner in the form and manner and within the time prescribed by the commissioner. The board may issue regulations to recapture commonwealth assistance for capital construction for any approved school facilities projects for school buildings which are removed from service.

(b) In the event an eligible applicant sells or leases an assisted structure or if the assisted structure was not used as a schoolhouse for at least half of the preceding fiscal year, the amount

of outstanding grant payments remaining after reductions under the provisions of subsection (a), shall be deducted from each city, town or regional school district's cherry sheets, so-called, as an assessment in accordance with the provisions of section 21 of chapter 59, according to a schedule agreed to between the city or town and the commissioner; provided, however, that at the discretion of the commissioner, deductions authorized from said cherry sheets under the provisions of this subsection may be waived for an assisted structure or facility which has been removed from use as a schoolhouse by a city, town or regional school district, pursuant to a plan approved by said city, town or regional school district and the commissioner, which provides for the reuse of the assisted structure or facility as a schoolhouse within two years of the adoption of the plan or prior to the expiration of the term of any bonds or notes issued to finance the project for which the grant was approved, whichever is the earliest.

(c) Any eligible applicant which applies for a grant pursuant to this chapter and which has, prior to such application, sold, leased or otherwise removed from service any schoolhouse operated by said eligible applicant shall be eligible for such grant only if the board determines either that the grant is not for the purpose of replacing a schoolhouse sold, leased or otherwise removed from service in the past ten years or that the need for the project covered by the grant could not have reasonably been anticipated at the time that such schoolhouse was sold, leased or otherwise removed from service.

(d) The provisions of this section, at the discretion of the commissioner, shall not apply to sales or leases of such assisted structures or facilities for nonprofit public purposes.

Section 16. The board shall create a maintenance assessment program for school buildings. Such assessment program shall include a review of all major building components, maintenance records, existing staff and vendor contracts. The board shall use such assessment program to issue ratings of the building conditions for each school district; survey current conditions, develop a model plan for the proper maintenance of school buildings, and provide technical assistance and information to municipalities and school districts.

Section 17. (a) Each November 1, beginning with November 1, 2000, the board shall submit a report to the governor, the house and senate committees on ways and means, the joint committee on education, arts and humanities, the joint committee on natural resources, the house committee on long term debt and the joint committee on local affairs which analyzes the anticipated needs for school facilities projects of kinds that are reimbursable under this chapter in the fiscal year commencing July 1 of each year, beginning with July 1, 2001, and which recommends annual authorization levels for new projects to be approved in each fiscal year.

(b) The commissioner, in conjunction with the board, shall in addition undertake a planning process to identify every school building within the commonwealth that is likely to require construction, enlargement, reconstruction, rehabilitation, or improvement due to such factors as deteriorating school buildings, lack of adequate facilities to meet educational standards, and anticipated increases in school age populations. The board shall report on the planning process by November 1, 2000 in the report to be submitted under paragraph (a).

(c) The board shall collect and electronically maintain data on all school buildings in the commonwealth, including data on the size, capacity, age and maintenance of each school building.

Section 18. The provisions of this chapter shall not affect the terms of payment of any grant approved in accordance with chapter 645 of the acts of 1948 as amended, by the board of education, prior to the date of the enactment of this chapter, except as provided in section 17.

Section 19. The board shall require school districts to notify the board of the actual interest rate obtained for any bond issuance for which the municipality or district will receive state reimbursement under the provisions of chapter 645 of the acts of 1948, as amended, or this chapter, within 30 days of initial bonding. The board shall reimburse municipalities or districts at the actual interest rate obtained.

Municipalities and districts shall submit notification to the board within 30 days of refinancing debt issued pursuant to said chapter 645 or this chapter.

SECTION 141. Chapter 71 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after section 1B the following section:-

Section 1C. Each school district shall conduct, in cooperation with the local parent advisory council, at least one workshop annually within the school district on the rights of students and their parents and guardians under the special education laws of the commonwealth and the federal government and shall make written materials explaining such rights available upon request.

SECTION 142. Section 37G of chapter 71 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by adding the following subsection:-

(c) The board of education shall promulgate regulations regarding the use of physical restraint for students. Such regulations shall not preclude any teacher or employee or agent of the school from using reasonable force to protect pupils, other persons and themselves from an assault by a pupil as set forth above in section (b). Such regulations shall require training of all personnel authorized to administer any forms of restraint. Such regulations shall provide for procedures for notification to the department and to the parents.

SECTION 143. Section 38G of said chapter 71, as so appearing, is hereby amended by inserting after the twentieth paragraph the following paragraph:-

In addition to any other requirements of this section, the board shall require, as a provision of an administrator's or educator's initial certification, that all educators and administrators shall have training in strategies for effective inclusive schooling for children with disabilities, instruction of students with diverse learning styles and classroom organization and management. Such training shall include, at a minimum, practical experience in the application of these strategies.

SECTION 144. Said section 38G of said chapter 71, as so appearing, is hereby further amended by inserting after the twenty-third paragraph the following paragraph:-

In addition to any other requirements of this section, the board shall require, as a provision of an administrator's or educator's recertification, that all educators and administrators shall have training in strategies for effective inclusive schooling for children with disabilities, instruction of students with diverse learning styles and classroom organization and management. Such training shall include, at a minimum, practical experience in the application of these strategies.

SECTION 145. Section 38Q of said chapter 71, as so appearing, is hereby amended by striking out, in line 3, the words "and other professional staff" and inserting in place thereof the following words:- , other professional staff, paraprofessionals and teacher assistants.

SECTION 146. The first paragraph of said section 38Q of said chapter 71, as so appearing, is hereby further amended by inserting after the second sentence the following sentence:- The plan shall also include training in: (1) analyzing and accommodating diverse learning styles of all students in order to achieve an objective of inclusion in the regular classroom of students with diverse learning styles; and (2) methods of collaboration among teachers, paraprofessionals and teacher assistants to accommodate such styles. The plan may also include training in the provision of pre-referral services within regular education.

SECTION 147. Said chapter 71 is hereby further amended by inserting after section 38Q, as so appearing, the following section:-

Section 38Q½. A school district shall adopt and implement a curriculum accommodation plan to assist principals in ensuring that all efforts have been made to meet students' needs in regular education. The plan shall be designed to assist the regular classroom teacher in analyzing and accommodating diverse learning styles of all children in the regular classroom and in providing appropriate services and support within the regular education program including, but not limited to, direct and systematic instruction in reading and provision of services to address the needs of children whose behavior may interfere with learning, or who do not qualify for special education services under chapter 71B. The curriculum accommodation plan shall include provisions encouraging teacher mentoring and collaboration and parental involvement.

SECTION 148. Section 59C of said chapter 71, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:-

The school council, including the school principal, shall meet regularly and shall assist in the identification of the educational needs of the students attending the school, make recommendations to the principal for the development, implementation and assessment of the curriculum accommodation plan required pursuant to section 38Q½, shall assist in the review of the annual school budget and in the formulation of a school improvement plan, as provided below.

SECTION 149. Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Department" the following definition:-

"Free appropriate public education", special education and related services as consistent with the provisions set for in the 20 U.S.C. 1400 et seq., its accompanying regulations, and which meet the education standards established by statute or established by regulations promulgated by the board of education.

SECTION 150. Section 1 of chapter 71B of the General Laws, as so appearing, is hereby amended by striking out the definition of "Least restrictive environment" and inserting in place thereof the following definition:-

"Least restrictive environment", the educational placement that assures that, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services, cannot be achieved satisfactorily.

SECTION 151. Said section 1 of said chapter 71B, as so appearing, is hereby further amended by striking out the definitions of "School age child with special needs", "School age child requiring special education" and "Special Education" and inserting in place thereof the following three definitions:-

"School age child with a disability", a school age child in a public or non-public school setting who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services in order to successfully develop the child's individual educational potential, including a school age child who requires only a related service or services if said related service or services are required in order to ensure access of the child with a disability to the general education curriculum. The term "specific learning impairment" shall be defined pursuant to 24 CFR 300.7(c)(10), the definition of specific learning disability contained in federal regulations implementing the Individual with Disabilities Education Act in effect on January 1, 2000. The term "emotional impairment" shall be defined pursuant to 34 CFR 300.7(c)(4), the definition of "emotional disturbance" contained in federal regulations implementing the Individual with Disabilities Education Act in effect on January 1, 2000. No child shall be determined to be a student with a disability solely because such child's behavior violates the school's disciplinary code and no child shall be determined to be a student with a disability solely because such child shall have failed the statewide assessment tests authorized pursuant to section 11 of chapter 69. The use of the word disability in this section shall not be used to provide a basis for labeling or stigmatizing the child or defining the needs of the child and shall in no way limit the services, programs, and integration opportunities provided to such child.

"School age child requiring special education", a child with a disability who requires special education as determined in accordance with the provisions of this chapter and the regulations set forth by the board.

"Special education", educational programs and assignments including, special classes and programs or services designed to develop the educational potential of children with disabilities including, but not limited to, educational placements of children by school committees, the departments of public health, mental health, mental retardation, youth services and social services in accordance with the provisions of this chapter and the regulations set forth by the board.

SECTION 152. Said section 1 of said chapter 71B, as so appearing, is hereby further amended by striking out the definition of "School age child with a disability as inserted by section 151 and inserting in place thereof the following definition:-

"School age child with a disability", a school age child in a public or non-public school setting who, because of a disability consisting of a developmental delay or any intellectual, sensory, neurological, emotional, communication, physical, specific learning or health impairment or combination thereof, is unable to progress effectively in regular education and requires special education services, including a school age child who requires only a related service or related services if said service or services are required to ensure access of the child with a disability to the general education curriculum. The term "specific learning impairment" shall be defined pursuant to 24 CFR 300.7(c)(10), the definition of specific learning disability contained in federal regulations implementing the Individual with Disabilities Education Act in effect on January 1, 2000. The term "emotional impairment" shall be defined pursuant to 34

CFR 300.7(c)(4), the definition of "emotional disturbance" contained in federal regulations implementing the Individual with Disabilities Education Act in effect on January 1, 2000. No child shall be determined to be a student with a disability solely because such child's behavior violates the school's disciplinary code and no child shall be determined to be a student with a disability solely because such child shall have failed the statewide assessment tests authorized pursuant to section 1I of chapter 69. The use of the word disability in this section shall not be used to provide a basis for labeling or stigmatizing the child or defining the needs of the child and shall in no way limit the services, programs, and integration opportunities provided to such child.

SECTION 153. Section 2 of said chapter 71B, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following three paragraphs:-

The board shall promulgate, jointly with the departments of mental health, mental retardation, public health, social services and youth services, the Massachusetts commission for the blind and the commission for the deaf and hard of hearing, regulations regarding educational programs for children with disabilities including, but not limited to a definition of disability which definition shall emphasize a thorough, narrative description of each child's development potential so as to minimize the possibility of stigmatization and to assure the maximum possible development in the least restrictive environment of a child with a disability. The definition shall be sufficiently flexible to include children with multiple disabilities.

Prior to referral of a school age child for evaluation under the provisions of this chapter, the principal of the child's school shall ensure that all efforts have been made to meet such child's needs within the regular education program. Such efforts may include, but not be limited to: modifying the regular education program, the curriculum, teaching strategies, reading instruction, environments or materials, the use of support services, the use of consultative services and building-based student and teacher support and assistance teams to meet the child's needs in the regular education classroom. Such efforts and their results shall be documented and placed in the child's school record but they shall not be construed to limit or condition the right to refer a school age child for an evaluation under the provisions of this chapter. The principal of each school shall implement the district's curriculum accommodation plan created under section 38Q½ of chapter 71 in developing strategies for serving children with diverse learning styles within the regular classroom. The principal of each school may designate one professional staff person in the curriculum accommodation plan required in said section 38Q½ of chapter 71 to coordinate services, support and resources designed to meet each child's needs within regular education.

Children receiving or requiring special education shall be entitled to participate in any of the following programs: (1) additional direct or indirect instruction consultation service, materials, equipment or aid provided children or their regular classroom teachers which directly benefits children requiring special education; (2) supplementary individual or small group instruction or treatment in conjunction with a regular classroom program; (3) integrated programs in which children are assigned to special resource classrooms but attend regular classes to the extent that they are able to function therein; (4) full-time special class teaching in a public school building; (5) teaching at home; (6) full-time teaching in a special day school or other day facility; (7) teaching at a hospital; (8) teaching at a short or long-term residential school; (9) occupational or pre-occupational training in conjunction with the regular occupational training program in a public school; (10) occupational and pre-occupational training in conjunction with full-time special class teaching in a public school building, at home, in a special day school or

other day facility, hospital or short or long-term residential school; and (11) any combination or modification of these programs or other programs, services or experimental provisions which obtain the prior approval of the department.

SECTION 154. Section 2 of said chapter 71B, as so appearing, is hereby amended by striking out the first paragraph as inserted by section 153 of this act and inserting in place thereof the following paragraph:-

The board shall promulgate, jointly with the departments of mental health, mental retardation, public health, social services and youth services, the Massachusetts commission for the blind and the commission for the deaf and hard of hearing, regulations regarding educational programs for children with disabilities including, but not limited to a definition of disability which definition shall emphasize a thorough, narrative description of each child's development potential so as to minimize the possibility of stigmatization and to assure a free and appropriate public education in the least restrictive environment of a child with a disability. The definition shall be sufficiently flexible to include children with multiple disabilities.

SECTION 155. Said section 2 of said chapter 71B, as so appearing, is hereby further amended by striking out, in line 49, the word "needs" and inserting in place thereof the following word:- disability.

SECTION 156. Section 3 of said chapter 71B, as so appearing, is hereby amended by striking out the first and second paragraphs and inserting in place thereof the following three paragraphs:-

In accordance with the regulations, guidelines and directives of the department issued jointly with the departments of mental health, mental retardation, public health, youth services, and the commission for the blind and the commission for the deaf and hard of hearing and with assistance of the department, the school committee of every city, town or school district shall identify the school age children residing therein who have a disability, as defined in section 2, diagnose and evaluate the needs of such children, propose a special education program to meet those needs, provide or arrange for the provision of such special education program, maintain a record of such identification, diagnosis, proposal and program actually provided and make such reports as the department may require. Until proven otherwise, every child shall be presumed to be appropriately assigned to a regular education program and presumed not to be a school age child with a disability or a school age child requiring special education.

The department shall take all steps necessary to monitor and enforce compliance with this section no less than every three years, including but not limited to investigations, on-site visits and public hearings, and shall provide assistance in planning and implementing any necessary corrective actions to ensure that no school committee provides special education services to a child pursuant to this chapter unless an evaluation conducted pursuant to this section determines that the child has a disability, as defined in section 1. The department shall further take any and all steps necessary to monitor and enforce compliance with all other provisions of this chapter, including but not limited to the requirement that school committees educate children in the least restrictive environment, as defined in section 1. The department shall also ensure that teachers and administrators are fully informed about their responsibilities for implementing the provisions of this chapter and are provided with technical assistance and training necessary to assist them in such effort.

No school committee shall refuse a school age child with a disability admission to or continued attendance in public school without the prior written approval of the department, and without complying with state and federal requirements for disciplining students with disabilities,

where applicable. During the pendency of administrative or judicial proceedings, a court of competent jurisdiction shall have the authority to change a child's educational placement, including removing the child from school, in any circumstances when the school committee shows that the child's behavior poses a substantial likelihood of injury to himself or others; provided, however, that the foregoing shall not be construed to abrogate any authority concerning discipline for such a child which is available to a school committee under said regulations and procedures or any other law. No child who is so refused or removed shall be denied an alternative form of education approved by the department, as provided for in section 10, through a tutoring program at home, through enrollment in an institution operated by a state agency, or through any other program which is approved for the child by the department.

SECTION 157. Said section 3 of said chapter 71B, as so appearing, is hereby further amended by inserting after the word "courts", in line 45, the following words:- ; provided, however, that a school district shall not be required to refer a child for an evaluation solely because the child presents a risk of or fails to be promoted at the end of the school year; and provided further, that a school district shall not be required to refer a child for an evaluation solely because such child failed the statewide assessment tests authorized pursuant to section 11 of chapter 69.

SECTION 158. The fifth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby amended by inserting after the first sentence the following sentence:- The parents or guardians of such child shall be consulted about the content of such evaluation and the evaluators being used.

SECTION 159. Said fifth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby further amended by striking out the fourth and fifth sentences and inserting in place thereof the following two sentences:- Such assessment shall include (i) the child's efficiency in reading and writing print as compared with children who do not have a disability; (ii) the child's stamina in using print before fatigue occurs; (iii) the child's prognosis for further sight loss; and (iv) the child's present competence in Braille and a detailed explanation as to whether instruction is appropriate, conducted by a certified teacher of students with visual impairments. Any such instruction found to be essential to meet such child's disability shall be available at a frequency and duration sufficient to meet fully the educational needs of the child.

SECTION 160. Said section 3 of said chapter 71B, as so appearing, is hereby further amended by striking out the seventh to tenth paragraphs, inclusive, and inserting in place thereof the following three paragraphs:-

These departments through their joint regulations may define circumstances under which the requirement of any or all of these assessments may be waived so long as an evaluation appropriate to the educational needs of the child is provided. Those persons assessing said child shall maintain a complete and specific record of diagnostic procedures attempted and their results, the conclusions reached, the suggested courses of special education best suited to the child's educational needs, and the specific benefits expected from such action. A suggested special education program may include family guidance or counseling services. When the suggested course of study is other than regular education those persons assessing said child shall present a method of monitoring the benefits of such special education and conditions that would indicate that the child should return to regular classes, and a comparison of expected outcomes in regular class placement.

If a child with a disability requires special education and related services in accordance with the provisions of the federal Individuals with Disabilities Education Act of 1975, the

provisions of this chapter, and federal and state regulations promulgated pursuant thereto, such services shall be made available.

Upon completion of said evaluation, the child's parents may obtain an independent evaluation at school committee expense, from child evaluation clinics or facilities approved by the department jointly with the departments of mental health, mental retardation and public health, provided that the school committee may initiate within five school working days of the request, a hearing with the bureau of special education appeals to show that its evaluation is appropriate, in accordance with the provisions of the Individuals with Disabilities Education Act and regulations promulgated pursuant thereto; provided, however, that the parents may choose, on a voluntary basis, to share the costs of the independent evaluation with the school committee pursuant to a sliding fee scale established in regulations issued by the department pursuant to this section, in which case the school committee shall pay its share of the costs in accordance with the scale; provided, that, if the child's family income does not exceed 400 per cent of the federal poverty level established by the United States department of health and human services, parents shall pay no cost; provided, however, that the division of health care finance and policy established by section 2 of chapter 118G shall establish rates for educational assessments conducted or performed by psychologists and other trained certified educational personnel notwithstanding the provisions of any general or special law or rule or regulation to the contrary. A parent may obtain an independent evaluation at private expense from any specialist.

SECTION 161. The eleventh paragraph of said section 3 of said chapter 71B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The written record and clinical history from both the evaluation provided by the school committee and independent evaluation, if any, shall be made available to the parents, guardians, or persons with custody of the child.

SECTION 162. The twelfth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby amended by inserting after the third sentence the following sentence:- The hearing officer may determine, in accordance with the rules, regulations and policies of the respective agencies, that services shall be provided by the department of social services, the department of mental retardation, the department of mental health, the department of public health, or any other state agency or program, in addition to the program and related services to be provided by the school committee.

SECTION 163. The twelfth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The hearing officer shall order such educational placement and services as he deems appropriate and consistent with this chapter to assure the child receives a free and appropriate public education in the least restrictive environment; provided, however, that a presumption shall exist to direct such placement to the regular educational environment.

SECTION 164. Said section 3 of said chapter 71B, as so appearing, is hereby further amended by inserting after the twelfth paragraph the following paragraph:-

At any time, school committees and parents, guardians, or persons with custody of a student may voluntarily agree to seek resolution of any dispute through mediation provided by the bureau of special education appeals, provided, that the mediation process may not be used to deny or delay a parent's right to a due process hearing or to delay or deny any other rights afforded under this chapter and the federal Individuals with Disabilities Education Act of 1975, as so amended and shall be scheduled as soon as practicable after such agreement.

SECTION 165. The sixteenth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The educational progress of any child placed in a special education program shall be reviewed at least annually as set forth above.

SECTION 166. Said sixteenth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following two sentences:- If the evaluation of the special education program shows that said program does not provide educational benefit to the child to the maximum extent feasible in the least restrictive environment, then such child shall be reassigned. If the evaluation shows that the child no longer needs special education services, the team shall recommend that the child no longer be considered a school age child with disabilities for the purposes of this chapter.

SECTION 167. Said sixteenth paragraph of said section 3 of said chapter 71B, as so appearing, is hereby further amended by striking out the third sentence and inserting in place thereof the following sentence:- If the evaluation of the special education program shows that said program does not provide educational benefit to the child in the least restrictive environment, then such child shall be reassigned.

SECTION 168. Said section 3 of said chapter 71B, as so appearing, is hereby further amended by adding the following paragraph:-

The school committee of any city, town, or school district shall establish a parent advisory council on special education. Membership shall be offered to all parents of children with disabilities and other interested parties. The parent advisory council duties shall include but not be limited to: advising the school committee on matters that pertain to the education and safety of students with disabilities; meeting regularly with school officials to participate in the planning, development, and evaluation of the school committee's special education programs. The parent advisory council shall establish by-laws regarding officers and operational procedures. In the course of its duties under this section, the parent advisory council shall receive assistance from the school committee without charge, upon reasonable notice, and subject to the availability of staff and resources.

SECTION 169. Section 4 of said chapter 71B, as so appearing, is hereby amended by inserting after the word "district", in line 8, the following words:- ; provided, however, that every school committee, where feasible, shall be associated with an educational collaborative providing services to children with a disability which disability occurs in a low incidence in the population of children requiring special education.

SECTION 170. Section 5 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 13, the words "special needs" and inserting in place thereof the following words:- a disability.

SECTION 171. Said chapter 71B is hereby further amended by striking out section 5A, as so appearing, and inserting in place thereof the following section:-

Section 5A. (a) There is hereby established, subject to appropriation, a special education reimbursement program. Said program shall reimburse municipalities for the eligible instructional costs associated with implementing individual education plans, so-called, of students receiving special education services pursuant to this chapter. Said reimbursements shall

be in addition to amounts distributed pursuant to chapter 70 and shall not be included in the calculation of base aid, as defined in said chapter 70, for any subsequent fiscal year. Said reimbursement shall not include costs incurred by municipalities for transportation. The department shall define, consistent with this section and in regulations it shall promulgate, those instructional costs associated with implementing individual education plans for pupils that shall be eligible for reimbursement under said program.

(b) For the purposes of this section, the following words shall have the following meanings:-

"In-district programs", shall consist of special education services provided in a facility used by any school district to educate children with disabilities and children without disabilities pursuant to chapter 71 or a separate facility wholly operated by a school district exclusively for students who reside in that district with significant and severe disabilities whose needs cannot be met in a less restrictive setting and who otherwise would be served in private special education day or residential schools; provided, however, that such separate facilities shall be approved by the department of education before being designated as "in-district programs" for the purpose of this section.

"Out-of-district programs", shall consist of special education services provided in a facility used exclusively for the purposes of this chapter.

"Instructional costs", shall include only those costs directly attributable to providing the special education services on the student's individual education plan, such as salary of educational personnel, salary of related services personnel, costs for specialized books, materials, or equipment, tuition costs, if the student is receiving services from other than the local public school, consultant costs if directly attributable to the student's instructional program, and instructional costs of extended day or year services if such services are a part of the individual education plan. Such costs shall be prorated as appropriate to reflect group activities or costs for part time services. Instructional costs shall not include transportation costs, administrative or overhead costs, the costs of adapting classrooms or materials that are used by more than one student, the costs of fringe benefits of personnel employed by the school district, nor the costs associated with evaluation, development of the individual education plan, or service coordination for the student with disabilities. Instructional costs for the purposes of this reimbursement program also shall not include the salary of personnel providing educational services when such services are not specially designed instruction for the student with disabilities.

(c) Instructional costs eligible for reimbursement under said program shall be reported by a school district to the department in a form and manner as prescribed by the commissioner. For each such school district, the department shall review said report and approve those per pupil instructional costs that are eligible for reimbursement pursuant to said program within thirty days of submission. Based upon said approved costs, the department shall calculate the reimbursement due a municipality based upon the following:

(i) the costs of in-district programs shall be reimbursed at 80 per cent of all such approved costs that exceed three times the state average per pupil foundation budget, as defined in said chapter 70, for the current fiscal year; and

(ii) the costs of out-of-district programs shall be reimbursed at 65 per cent of all said approved costs that exceed four times the state average per pupil foundation budget, as defined in said chapter 70, for the current fiscal year; provided, however, that a municipality or school district in which the number of hearing-impaired students enrolled in a private school located in said municipality or school district, pursuant to the provisions of this chapter exceeds 40 per cent

of the municipality's or district's private day school placements shall be reimbursed at 80 per cent of all said approved costs. Said municipality or school district shall be reimbursed at 100 per cent of all approved costs, including costs related to transportation and moving students from private day placement to a public school within said school district and for all students transitioned out of said private day school and receiving their education within said municipality or school district.

(d) Districts shall notify the department within 30 days of any change in previously approved instructional costs, including but not limited to changes in a student's enrollment status or individual educational plan.

(e) In preparing a budget recommendation for the subsequent fiscal year for consideration by the local appropriating authority, a school district shall project special education costs and enrollments, including per pupil instructional costs eligible for reimbursement under this program. The school committee's budget recommendation shall exclude any such instructional costs eligible for reimbursement under this program. Upon receipt of reimbursements paid under this program by the municipal treasurer, in the case of local school districts, or the regional district treasurer in the case of regional school districts, such amounts shall be recorded by the municipality or district as additional appropriations to the school committee, without any further action being required on the part of the local appropriating authority.

(f) Reimbursements shall be made in four quarterly payments to coincide with the distributions of funds made available pursuant to said chapter 70. The department shall estimate the first, second, and third quarter payments in such a manner as to provide the district with 50% of its estimated annual reimbursement by the end of the first quarter, 65% of its estimated annual reimbursement by the end of the second quarter, and 80% of its estimated annual reimbursement by the end of the third quarter. Fourth quarter payments shall be based on actual reported costs and shall include any required adjustments to prior estimated payments including but not limited to adjustments required by changes in a student's enrollment status or individual educational plan reported pursuant to paragraph (d) of this section.

(g) Notwithstanding the foregoing, the commonwealth shall continue to pay to approved private residential schools all sums authorized by this section on a direct payment basis.

SECTION 172. Said chapter 71B, as so appearing, is hereby further amended by inserting after section 5A the following two sections:-

Section 5B. (a) There is hereby established a pooled risk program for extraordinary and unanticipated special education costs to be administered by the department. The board of education shall promulgate regulations necessary for the operation of the program.

(b) A local or regional school district may elect to participate in the pooled risk program by vote of the school committee by a date established by regulations of the department. Districts shall be given at least one opportunity each year to join the program but districts shall elect to participate for a period of not less than five years.

(c) The commissioner shall annually establish the premiums to be paid by each participating district. Such premiums shall take into account the number of students enrolled in the district, the district's evolving history of claims on the fund and such other factors as are deemed appropriate. A district's premiums shall increase in response to that district's claims made on the fund in accordance with regulations promulgated by the board. Commonwealth appropriations shall provide a match of up to \$1 per dollar paid in premiums by participating districts.

(d) The comptroller shall establish on the books of the commonwealth a special education pooled risk program trust fund. At the direction of the commissioner, premium payments due from participating districts shall be deducted from said district's quarterly local aid distributions and deposited in said trust fund. Any amounts appropriated for the purposes of this program, including any amount appropriated for the purpose of insuring short-term solvency, shall also be transferred into said trust fund.

(e) Any funds remaining in the trust fund at the end of a fiscal year shall be carried forward into the following fiscal year and shall remain available for expenditure without further appropriation.

(f) Districts may submit claims for payment not to exceed 75 per cent of the amount by which the district's current year total special education expenses exceed 110 per cent of the district's average total special education expenses of the prior three years. For the purposes of this section, total special education expenses shall include instructional costs and private school tuition costs but shall not include transportation costs. Claims shall be subject to review and approval by the commissioner. Approved claims shall be paid from the trust fund.

(g) The commissioner may make such adjustments as are necessary to premiums and claims to account for reimbursements received under any other state or federal programs and to adjust prior year amounts based on final reported costs for the fiscal year.

(h) Commonwealth charter schools may participate in the program in the same manner as local and regional school districts provided that any payments due to the trust fund may be deducted from tuition payments otherwise to be deducted from district quarterly local aid distributions pursuant to subsection (nn) of section 89 of chapter 71. Said payments shall be deposited in said trust fund.

(i) A reasonable amount of administrative costs may be expended annually from the trust fund for the administration of the program.

Section 5C. (a) There is hereby established a zero interest loan program for extraordinary and unanticipated special education costs, to be administered by the department. The board of education shall promulgate regulations necessary for the operation of this program.

(b) Local and regional school districts may elect to apply to the loan program by vote of the school committee.

(c) The state comptroller shall establish on the books of the commonwealth a special education loan program trust fund. Any amounts appropriated for the purposes of this program shall be transferred into said trust fund.

(d) Any funds remaining in the trust fund at the end of a fiscal year shall be carried forward into the following fiscal year and shall remain available for expenditure without further appropriation.

(e) Districts may apply for zero interest loans to cover any portion of the amount by which the current year's total special education expenses are expected to exceed 110 per cent of the district's average total special education expenses of the prior three years. For the purposes of this section, total special education expenses shall include instructional costs, private school tuition costs and premiums paid to the risk pool trust fund established in section 5B, but shall not include transportation costs. Loan applications shall be subject to review and approval by the commissioner. Approved loan amounts shall be paid from the trust fund established in subsection (c).

(f) The commissioner may make such adjustments as are necessary to loan applications to account for reimbursements received under any other state or federal programs.

(g) Loans shall be repaid over a five-year period according to a schedule to be established through department regulations. At the direction of the commissioner, loan repayments due from participating districts shall be deducted from said district's quarterly local aid distributions and deposited in said trust fund.

(h) Commonwealth charter schools may participate in the program in the same manner as local and regional school districts provided that any payments due to the trust fund may be deducted from tuition payments otherwise to be deducted from district quarterly local aid distributions pursuant to subsection (nn) of section 89 of chapter 71. Said payments shall be deposited in said trust fund.

(i) A reasonable amount of administrative costs may be expended annually from the trust fund for the administration of the program.

SECTION 173. Section 6 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 13, the word "must" and inserting in place thereof the following word:- shall.

SECTION 174. Section 7 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 4, the word "must" and inserting in place thereof the following word:- shall.

SECTION 175. Section 8 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 1, the words "special needs" and inserting in place thereof the following words:- a disability.

SECTION 176. Section 9 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 5, the words "special needs" and inserting in place thereof the following words:- a disability.

SECTION 177. Said chapter 71B, as so appearing, is hereby further amended by inserting after section 9 the following section:-

Section 9A. The department of education shall provide a workshop curriculum on the rights of students, their parents and guardians under the special education laws of the commonwealth and the federal government to each school district in the commonwealth to be used by such school districts in conducting the workshops required by section 1C of chapter 71. The department of education shall establish a Parent Advisory Committee to assist and advise in developing said workshop curriculum. The Parent Advisory Committee shall consist of representatives from the Federation for Children with Special Needs, the Massachusetts Association of Parent Advisory Councils, the Parent Professional Advocacy League, the Disability Law Center, and the Massachusetts Advocacy Center.

SECTION 178. Section 10 of said chapter 71B, as so appearing, is hereby amended by striking out the first, second and third paragraphs and inserting in place thereof the following three paragraphs:-

The department may, on an annual renewal basis, upon the request of the parents or guardians and the recommendations of a local school committee refer children requiring special education to any institution within or without the commonwealth which offers curriculum, instruction and facilities which are appropriate to the child's disability and which are approved by the department under regulations prescribed by the departments of education, mental health, mental retardation and public health. The curriculum at such an institution shall for approval be equivalent, insofar as the department deems feasible, to the curriculum for children of comparable age and ability in the public schools of the commonwealth. Notwithstanding the foregoing, the department shall give preference to programs that are offered within the child's school district and if no such program is available, to programs offered within the commonwealth. Placement in another state shall be made only when no public or private facility

which can provide the services in the student's individualized education plan, consistent with requirements of state and federal law, is available in the commonwealth; but no child in an out of state placement as of June 1, 2000 shall be required to transfer to a facility located within the commonwealth unless the transfer is in accordance with the child's individualized education plan and is not based solely upon this section.

Before acting on said request, the department shall determine the nature and extent of a child's disability, and shall require the local school committee to prepare and submit plans detailing the time needed to establish facilities adequate for children with a disability in the city, town or school district where the child resides, and shall ascertain whether adequate facilities and instruction programs are available or when adequate facilities can be made available in the city, town or school district where the child with a disability resides. Until adequate facilities can be made available, such child shall be placed in the most adequate program available as determined by the department. The department shall further define by regulation the circumstances in which it shall be directly responsible for the placement of children in such special education programs, and by standards available to the public determine the methods and order of such placements; provided, however, that no child shall be denied access to any program operated by the department of mental health, mental retardation, public health or social services to which in the judgment of the operating department the child should be admitted.

The expenses of the instruction and support actually rendered or furnished to such children with disabilities, including their necessary traveling expenses, whether daily or otherwise, but not exceeding ordinary and reasonable compensation therefor, may be paid by the commonwealth; but the department shall issue regulations jointly with the departments of mental health, mental retardation, public health, youth services and social services defining the circumstances in which the commonwealth shall bear all or part of such cost, the circumstances in which school committees shall be required to bear part or all of such cost, and the circumstances in which a parent or guardian may be required to reimburse the commonwealth for part or all of such cost; provided, however, that in no event shall the cost to the school committee for placement under this section be less than the average per pupil cost for pupils of comparable age within the city, town or school district; and provided, further, that in determining the cost to the parent or guardian, if any, no charge shall be made for any educational cost but only for support and care. In determining the cost to the parent or guardian the department shall apply criteria which take into account relative ability to pay.

SECTION 179. Section 10 of chapter 71B of the General Laws, as so appearing, is hereby amended by inserting after line 53 the following paragraph:-

The board of education shall not limit the rights of a school district to conduct unannounced visits to any private school in which the district has placed any students pursuant to this chapter.

SECTION 180. Section 11A of said chapter 71B, as so appearing, is hereby amended by striking out, in line 2, the words "special needs" and inserting in place thereof the following words:- a disability.

SECTION 181. Section 12 of said chapter 71B, as so appearing, is hereby amended by striking out, in line 5, the words "special needs" and inserting in place thereof the following words:- a disability.

SECTION 182. Section 12C of said chapter 71B, as so appearing, is hereby amended by striking out, in line 6, the words "special needs" and inserting in place thereof the following words:- a disability.

SECTION 183. Said section 12C of said chapter 71B, as so appearing, is hereby further amended by striking out, in line 24, the words "special needs" and inserting in place thereof the following word:- disability.

SECTION 184. Section 25 of chapter 74 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words ", the Essex agricultural and technical institute,".

SECTION 185. Section 26 of said chapter 74, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 186. Section 28 of said chapter 74, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 187. Section 31C of said chapter 74 is hereby repealed.

SECTION 188. Said chapter 74 is hereby further amended by striking out section 33, as so appearing, and inserting in place thereof the following section:-

Section 33. The Bristol county agricultural school and the Norfolk county agricultural school shall be free to residents of Bristol and Norfolk counties, respectively, over 14 years of age, except that free attendance shall be limited by the capacity of the courses provided for such schools. The trustees of the Bristol county agricultural school and Norfolk county agricultural school may require the payment of tuition and related fees from each person enrolled in adult evening courses offered by said schools. The amount of tuition and related fees shall be determined by said trustees. All receipts of such tuition and related fees shall be deposited with the treasurer of the county.

SECTION 189. Section 35 of said chapter 74, as so appearing, is hereby amended by striking out the last sentence.

SECTION 190. Section 35A of said chapter 74 is hereby repealed.

SECTION 191. The General Laws are hereby amended by inserting after chapter 74 the following chapter:-

CHAPTER 74A.

INDEPENDENT AGRICULTURAL AND TECHNICAL SCHOOLS.

Section 1. Independent agricultural and technical institutes shall be public high schools operated pursuant to this chapter. The schools shall not be subject to section 89 of chapter 71. The schools shall operate under the general supervision of the department of education and operate independently of any municipality or school committee, and shall be managed by a board of trustees. Each school shall be a body politic and corporate with all powers and duties conferred by law upon regional school districts to the extent that such powers and duties are not inconsistent with this chapter.

Section 2. The Essex agricultural and technical institute shall be an independent agricultural and technical school pursuant to this chapter. The Bristol and Norfolk county agricultural high schools shall not become an independent agricultural and technical school pursuant to this chapter.

Section 3. The powers, duties and liabilities of each school shall be vested in and exercised by a board of trustees. The board of trustees shall consist of nine members appointed by the governor for terms of not more than four years, of which neither more than two nor less than one term shall expire each year. The chairperson of the board of trustees shall be designated by the governor from among the board's nine members. The term of the board of trustees of the

Essex agricultural and technical institute as constituted immediately prior to the transfer date of Essex county pursuant to section 1 of chapter 34B shall expire on January 1, 2001.

For the Essex independent agricultural and technical institute, members of said board shall be selected by the governor from nominations submitted by the mayors and boards of selectmen of the cities and towns having students enrolled in the institute. At least three of said members shall reside in the municipalities of Lynn, Peabody, Salem, Methuen, Gloucester, Haverhill or Lawrence and shall be selected from a list of nominations submitted by the mayors of such cities. At least one candidate shall reside in the municipalities of Danvers, Amesbury, Middleton, Newburyport or Beverly and shall be selected from a list of nominations submitted by the mayors or boards of selectmen in such municipalities.

The remaining five members shall reside in one of the remaining municipalities in which a student of said school resides and shall be selected from a list of nominations submitted by the mayors and boards of selectmen in each such municipality. Said remaining members shall be nominated from communities based on the percentage of students enrolled, which shall be recalculated every three years. The municipalities shall be ranked according to enrollment, then separated into three categories based on enrollment. Two members shall be selected from municipalities with enrollments in the top third, two members shall be selected from municipalities with enrollment in the middle third and one shall be selected from municipalities with enrollments in the lower third; provided, however, that no person shall be nominated from a municipality that does not enroll students at the institute; and provided, further, that no municipality shall have more than one seat on the board.

Section 4. The primary purpose of a school is to prepare students for occupations or additional education related to agriculture, agriscience, agribusiness, the care and management of animals, horticulture, forestry and environmental science. While a school may offer other forms of vocational-technical education, as defined in section 1 of chapter 74, every school shall avoid duplication of programs offered in vocational schools located within a 20-mile radius of the school. In fulfilling its purpose, a school shall not give any preference for admission to students on the basis of residence in the particular geographical area previously known as the county within which the school was located. A school shall admit students in accordance with an admissions plan approved by the commissioner of education.

Section 5. Notwithstanding any general or special law to the contrary, title to all real and personal property held by a county for the use of a school shall be transferred to the commonwealth upon the transfer date of a county abolished pursuant to section 1 of chapter 34B. The board of trustees of said school shall assume responsibility for the maintenance, operation and management of such property. The sale or lease of the property shall require special legislation; provided, however, that the sale or lease, for a term of greater than three years, of the real property shall require special legislation.

Section 6. The board of trustees shall appoint a director of a school who shall have all the powers and duties of a school superintendent to the extent that such powers and duties are not inconsistent with other provisions of this chapter. Said director shall serve at the pleasure of the board. The board of trustees shall also appoint a treasurer of a school, who shall:

(a) keep full and accurate accounts of a school's revenues, expenses, assets and liabilities, in accordance with generally accepted accounting principles as established by the governmental accounting standards board;

(b) establish the fiscal year of a school to conform to the fiscal year of the commonwealth;

(c) prudently invest all monies held in the name of a school;
(d) encumber funds and make expenditures in accordance with policies established by the board of trustees;

(e) permit the inspection of a school's books and accounts by the commissioner of education, the state auditor, the director of accounts, the inspector general or their respective designees;

(f) prepare and submit to the commissioner of education within 120 days following the close of each fiscal year such financial reports as the commissioner of education shall require, together with the opinion of an independent auditor attesting to such reports; and

(g) receive and take charge of all monies due to a school and give a bond for the faithful performance of his duties in accordance with the provisions of section 35 of chapter 41.

The director and the treasurer shall serve at the will and pleasure of the board and shall not be subject the provisions of chapter 31.

Section 7. The board of trustees shall submit to the commissioner of education not later than December 31 of each year a proposed budget for the following fiscal year. The commissioner shall either approve the budget as requested or, if he determines that the amount requested is excessive or unreasonable, shall approve a lesser amount. The commissioner shall calculate a tuition assessment for such fiscal year, equal to the amount of the approved budget less the amounts estimated to be received from state aid and other sources. The amount of state education aid for independent agricultural and technical schools shall be calculated pursuant to chapter 70 and shall be supplemented with a state appropriation pursuant to section 17 of chapter 34B. Not more than 30 days after the effective date of any law that alters the provisions of said chapter 70, the commissioner shall report the impact of any formula changes to the house and senate committee on ways and means. Said tuition assessment shall be paid by the various cities and towns in accordance with section 8.

Section 8. A school shall annually report to the commissioner of education, in conjunction with its foundation enrollment reporting pursuant to chapter 70, the city or town of residence of each student so enrolled. Notwithstanding section 27C of chapter 29, the commissioner of education shall allocate the following year's tuition assessment among the various cities and towns in proportion to such enrollment and shall notify each city and town of its respective assessment not later than 120 days prior to the start of the fiscal year. Each tuition assessment shall be deducted from the quarterly distributions of chapter 70 aid payable to such city or town or, if such assessment exceeds the amount of chapter 70 aid payable, it shall be deducted from any other state aid payable to such city or town. The total of all tuition assessments shall be paid each quarter to each school.

Section 9. The board of trustees shall not incur expenses in any fiscal year in excess of the budget amount approved by the commissioner of education unless the trustees determine that adequate funds are available for such expenses.

Section 10. The board of trustees may borrow funds for the operation of a school and for capital improvements; but any borrowing in excess of one year shall require the prior approval of the commissioner of education and the chief municipal official, or his designee, of every municipality having students enrolled at the school. Notwithstanding any general or special law to the contrary, a school shall be deemed an eligible institution for financing assistance provided by the Health and Educational Facilities Authority established under chapter 614 of the acts of 1968.

Section 11. A school shall be responsible for the transportation of its students in accordance with section 7A of chapter 71 and may contract with municipalities for the provision of transportation services; provided, however, that such responsibility shall be limited to students residing in municipalities within a 20-mile radius of the school, as determined by the commissioner of education.

Section 12. A school shall be eligible for all grants and state aid for which regional school districts are eligible. For the purposes of section 12 of chapter 645 of the acts of 1948, the Essex agricultural and technical institute's reimbursement percentage shall be 72 per cent.

Section 13. The board of trustees shall establish and maintain a capital reserve fund for the purpose of financing necessary facility maintenance and capital improvements, either directly or through the payment of debt service.

Section 14. Sections 3, 4, 5, 5A, 5B, 7, 7C, 8A, 23, 24, 32, 37A, 37B, 37C and 37F of chapter 74 and section 12B of chapter 76 shall not apply to agricultural and technical schools under this chapter or students enrolled at such schools.

Section 15. The board of trustees may procure insurance to cover dismemberment or death and the reasonable hospital, medical and surgical expenses incurred by, or on behalf of, any student enrolled at a school as a result of injuries sustained while participating, practicing or training for participation in athletic or interscholastic sports program of the school.

Section 16. Employees of independent agricultural and technical schools shall suffer no impairment of employment rights held immediately prior to the designation of such institutions as an independent agricultural and technical school pursuant to this chapter. Such employees shall suffer no interruption of service; no impairment of seniority, retirement, civil service or other rights; no reduction in rate of compensation or salary grade; and no change in union representation. All employees shall continue their right to collectively bargain pursuant to chapter 150E and shall be considered public employees within the meaning of section 1 of said chapter 150E, subject to the definitions set forth therein.

The board of trustees shall serve as the public employer for purposes of said chapter 150E. Rights and obligations under collective bargaining agreements covering such employees that are in effect immediately prior to the designation of an institution as an independent agricultural and technical school shall be assumed by and imposed upon the board of trustees immediately upon such designation. Employees who are subject to such collective bargaining agreements shall continue to be represented by the employee organizations that are parties to such agreements until such times as those employees elect to alter such representation in accordance with said chapter 150E. This section shall not apply to employees of the Essex county agricultural school who, prior to the designation of such school as an independent agricultural and technical school, were employed exclusively in post-secondary educational programs.

The board of trustees shall be responsible for the negotiation of all necessary collective bargaining agreements; provided, however, that collective bargaining negotiations shall include representation from a chief municipal official, or his designee, from every municipality with students enrolled at the school.

Section 17. Employees of a school under this chapter shall be eligible to participate in all group insurance programs and benefits administered by the group insurance commission pursuant to the provisions of section 16 of chapter 34B.

Section 18. Employees of a school under this chapter shall become members of the regional retirement system. Educators certified under section 38G of chapter 71 who are

employed by said school and are members of the teachers' retirement system shall continue to be members of the teachers' retirement system under chapter 32.

Section 19. Employees of schools shall be considered public employees for purposes of tort liability under chapter 258, and the board of trustees of a school shall be considered the public employer for purposes of tort liability under said chapter 258.

Section 20. Notwithstanding this chapter or any other general or special law to the contrary, for the purposes of chapter 268A, each school shall be deemed to be a state agency and the appointing official of a member of the board of trustees of such school shall be deemed to be the governor. Members of the board of trustees shall file a disclosure annually with the state ethics commission, the department of education and the governor. The form of the disclosure shall be prescribed by the state ethics commission and shall be signed under penalties of perjury. Such form shall be limited to a statement in which members of the board of trustees shall disclose any financial interest that they or a member of their immediate families, as defined in section 1 of chapter 268A have in any primary or secondary school located in the commonwealth or in any other state or with any person doing business with any primary or secondary school.

Each member of the board of trustees shall file such disclosure for the preceding calendar year with the commission within 30 days after becoming a member of the board of trustees, on or before September 1 of each year thereafter that such person is a member of the board of trustees and on or before September 1 of the year after such person ceases to be a member of the board of trustees; provided, however, that no member of the board of trustees shall be required to file such disclosure for the year in which he or she ceases to be a member of the board of trustees if he or she served less than 30 days in such year.

Section 21. The department of education may adopt regulations for the operation, maintenance, improvement and development of independent agricultural and technical schools.

Section 22. All post-secondary programs offered by the Essex Independent Agricultural and Technical Institute shall be transferred to the administration of North Shore Community College. Not later than July 31, 2000, the board of trustees of said institute and said college shall, in consultation with the secretary of administration and finance, enter into a cooperative agreement with said college regarding the use of school facilities for continued operation of such post-secondary programs on the campus of said institute and the payment of reasonable charges by said college for such use. Any employees of said institute who are employed exclusively for post-secondary education shall be transferred pursuant to chapter 34B and become employees of said community college. Tuitions paid for said associate degree program shall be collected by said community college. Employees who are transferred to and become employees of said community college pursuant to this section shall suffer no interruption of service, no impairment of retirement rights and no reduction in rate of compensation or salary grade. Said employees shall be public employees for purposes of section 1 of chapter 150E, subject to the definitions contained therein. Employees in a post-secondary program transferred to said community college pursuant to this provision, who hold professional staff or faculty positions, shall become members of the faculty or professional staff bargaining unit and shall be represented for collective bargaining purposes by the employee organization that represents such unit until such time as the employees in that bargaining unit elect to alter such representation in accordance with said chapter 150E. Such employees shall be eligible for all rights and benefits available to similarly situated employees of said community college, provided that for the purpose of eligibility for any rights or benefits, all years of service provided in a post-secondary program at

the Essex Agricultural and Technical Institute shall be considered as years of service rendered at North Shore community college.

SECTION 192. Section 12B of chapter 76 of the General Laws, as so appearing, is hereby amended by adding the following paragraph:-

If the student attends the public schools of another town and it is anticipated that the student shall need the services of a private day or residential school, an individual education plan team meeting shall be convened by the school district in which the child is attending school. The school district in which the student attends school shall notify the school district where the student resides of the team meeting at least five school days prior to the meeting. Personnel from the district in which the child resides shall be allowed to participate in the team meeting concerning future placement of the child.

SECTION 193. Section 19C of chapter 78 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 29, the words "\$1.60 per capita" and inserting in place thereof the following words:- \$1.70 per capita.

SECTION 194. Said section 19C of said chapter 78, as so appearing, is hereby further amended by striking out, in line 30, the words "\$1.75 per capita" and inserting in place thereof the following words:- \$1.86 per capita.

SECTION 195. Said section 19C of said chapter 78, as so appearing, is hereby further amended by striking out, in line 31, the words "\$2.07 per capita" and inserting in place thereof the following words:- \$2.20 per capita.

SECTION 196. Said section 19C of said chapter 78, as so appearing, is hereby further amended by striking out, in line 32, the words "\$2.26 per capita" and inserting in place thereof the following words:- \$2.41 per capita.

SECTION 197. Section 2B of chapter 85 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out, in line 17, the word "forty-eight" and inserting in place thereof the following words:- up to and including 53.

SECTION 198. Section 8E of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word "eighteen" and inserting in place thereof the following figure:- 16.

SECTION 199. Section 19 of chapter 90 of the General Laws, as so appearing, is hereby amended by striking out, in lines 18 and 42, the word "forty-eight", each time it appears, and inserting in place thereof, in each instance, the following figure:- 53.

SECTION 200. Section 19F of said chapter 90, as so appearing, is hereby amended by striking out, in line 10, the word "forty-eight" and inserting in place thereof the following figures:- 53.

SECTION 201. Chapter 90 of the General Laws is hereby amended by inserting after section 19J, as appearing in the 1998 Official Edition, the following section:-

Section 19K. For the purposes of this section only, the term "hitching mechanism" shall mean the lift cylinder and the lift arm. Nothing in this section shall apply to state, county, or municipally owned or operated vehicles. Between May 15 and October 15 of each year, the owner of any motor vehicle with a gross weight of less than 26,000 pounds which is equipped with a plow shall have removed the plow and hitching mechanism used with said plow. Vehicles equipped with an apparatus that allows the hitching mechanism to be folded flat leaving no protruding surfaces, shall only be required to have the plow removed, if the hitching mechanism is in the folded flat position while the vehicle is in operation. If snowfall occurs prior to October 25 or after May 15 a vehicle subject to this section may be re-equipped with the plow and any

apparatus necessary for clearing snow, but said vehicle shall abide by the provisions of this section within 72 hours of the conclusion of said snowfall. Any individual found operating a motor vehicle in violation of this section shall be issued a warning for the first offense, shall be fined \$250 for the second offense and \$500 and revocation of the vehicle's registration for the third offense. The revocation of a vehicle's registration due to a third offense shall remain in effect until such time as said vehicle is in compliance with this section. This section shall not apply to hitching mechanisms which are permanently affixed through welding or other means, prior to the effective date of this section. It shall be unlawful, and punishable by the same fines and revocations aforementioned, for any person to permanently affix through welding or other means a hitching mechanism governed under this section after the effective date of this section.

The registry of motor vehicles shall, within 180 calendar days of the effective date of this section, develop a list of makes and models of hitching mechanisms that fold flat leaving no protruding surfaces. The registry of motor vehicles shall promulgate and implement regulations governing a system of verification whereby the registry of motor vehicles may ensure a motor vehicle's compliance with this section following a third offense.

SECTION 202. Section 9B of chapter 93 of the General Laws is hereby repealed.

SECTION 203. Section 27 of chapter 94C of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out subsection (f) and inserting in place thereof, the following subsection:-

(f) The department of public health may promulgate rules and regulations for the implementation regarding the exchange of needles for the purpose of preventing the transmission of communicable diseases. Distribution or possession of needles and syringes in accordance with this section shall not be deemed in violation of this chapter.

Before implementing a needle exchange program in a municipality, the commissioner of public health shall create a community advisory committee. Said committee shall consist of seven residents of the municipality. Five of the members shall be appointed by the chief executive officer of said municipality, and shall include one representative of the board of health and one representative of the police department. The commissioner of public health shall appoint the remaining two members. The community advisory committee will have 60 days to solicit community input relating to implementation of the needle exchange program, and shall report its findings to the commissioner of public health at the end of the 60 day period. No final decision on the implementation of a needle exchange program shall be made before the end of the 60 day period.

SECTION 204. Section 32I of said chapter 94C, as so appearing, is hereby amended by adding the following subsection:-

(d) Subsections (a) and (b) shall not apply to a person possessing or distributing needles and syringes pursuant to subsection (f) of section 27.

SECTION 205. Chapter 111 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after section 51F the following section:-

Section 51G. An acute-care hospital, as defined in section 25B, shall, upon the discharge of any patient requiring acute rehabilitation hospital services, simultaneously furnish such patient the names and locations of at least three providers of such services within a 20-mile radius of the acute-care hospital, except in such cases where there are less than three acute rehabilitation hospitals within said distance. Such information provided to a patient shall be incorporated into the medical records of such patient and only such information regarding notice to patients relative to the location of rehabilitation hospitals shall be made available to any of the acute

rehabilitation hospitals for determination of fairness, objectivity and equality. In the event of unfairness or inequality as confirmed by the department of public health, a penalty shall be imposed for not less than \$5,000 per discharge and shall be considered an act of discrimination.

SECTION 206. Section 215 of chapter 111 of the General Laws is hereby repealed.

SECTION 207. The General Laws are hereby amended by inserting after chapter 111J the following chapter:-

CHAPTER 111K.

CATASTROPHIC ILLNESS IN CHILDREN RELIEF FUND COMMISSION.

Section 1. As used in this chapter the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Catastrophic illness", pediatric cancer, or any illness or condition treated at a pediatric specialty hospital, including ambulatory care and services provided by or ordered through such a hospital, the medical expenses of which are not covered by any other state or federal program, including the uncompensated care pool established by section 18 of chapter 118G, or any insurance contract and which exceed 10 per cent of the first \$100,000 of annual income of a family and 15 per cent of any family income in excess of \$100,000.

"Child", a person 18 years of age or under.

"Commission", the catastrophic illness in children relief fund commission.

"Department", the department of public health.

"Family", a child and the child's parent, parents or legal guardian, as the case may be, who is legally responsible for the child's medical expenses.

"Fund", the Catastrophic Illness in Children Relief Fund established pursuant to section 2ZZ of chapter 29.

"Income", all income, from whatever source derived, actually received by a family, excluding payments received from the fund.

"Resident", a resident of the commonwealth.

Section 2. (a) There is hereby established a catastrophic illness in children relief fund commission within the department of public health. The commission shall consist of the secretary of health and human services, the commissioner of public health, the commissioner of insurance and the state treasurer, who shall be members ex officio, and seven public members who shall be residents of the commonwealth, three of whom shall be appointed by the governor, one of whom shall be a representative of the AFL-CIO and four of whom shall be appointed upon the recommendation of the attorney general, including two of whom shall be providers of health care services to children in the commonwealth. The public members shall serve terms of five years, but the three public members first appointed by the governor shall serve for terms of two, three and four years, respectively.

(b) Each public member shall hold office for the term of his appointment and until his successor has been appointed and qualified. A member of the commission is eligible for reappointment.

(c) Each ex officio member of the commission may designate an employee of his department to represent him at meetings of the commission, and each designee may lawfully vote and otherwise act on behalf of the ex officio member for whom he constitutes the designee. Any designation shall be in writing delivered to the commission and filed with the secretary of state. The designation shall continue in effect until revoked or amended in the same manner as provided for in the initial designation.

Section 3. (a) Each public member of the commission may be removed from the office by the governor for cause, after a public hearing, and may be suspended by the governor pending the completion of the hearing. Before entering upon their duties, members of the commission shall take and subscribe an oath to perform the duties of the office faithfully, impartially and to the best of their ability. A record of oaths shall be filed with the secretary of state.

(b) Any vacancies in the membership of the commission occurring other than by expiration of a term shall be filled in the same manner as the original appointment, but for the unexpired term only.

Section 4. (a) The members shall elect a chairperson and chief executive officer of the commission who shall be one of the public members of the commission. The commission shall by rule determine the term of office of the chairperson and chief executive officer. The members shall elect a secretary and a treasurer who need not be members of the commission and the same person may be elected to serve as both secretary and treasurer.

(b) The powers of the commission shall be vested in its members in office from time to time and seven members of the commission shall constitute a quorum at any meeting. Actions may be taken and motions and resolutions adopted by the commission at any meeting by the affirmative vote of at least seven members of the commission. A vacancy in the membership of the commission shall not impair the right of a quorum to exercise all the powers and perform all the duties of the commission.

(c) The members of the commission shall serve without compensation, but the commission shall reimburse its members for the reasonable expenses incurred in the performance of their duties based upon the monies available in the fund.

(d) The commission shall be appointed not later than November 1, 2000 and shall organize as soon as may be practicable after the appointment of its members.

Section 5. The commission shall have the following powers and duties:-

(a) to establish a program to administer the fund and authorize the payment or medical reimbursement of the medical expenses of children with catastrophic illnesses;

(b) to establish procedures for applying to the fund, determining the eligibility for the payment or reimbursement of medical expenses for each child and processing claim disputes;

(c) to establish procedures for reimbursement of the fund where a family, after receiving assistance from the fund, recovers the costs for a child's medical expenses from a catastrophic illness pursuant to a settlement or judgment in a legal action;

(d) to establish the amount of reimbursement for the medical expenses of each child using a sliding fee scale based on a family's ability to pay for medical expenses, which takes into account family size, family income and assets and family medical expenses;

(e) to adjust the financial eligibility criteria established pursuant to section 1 based upon the monies available in the fund;

(f) to disseminate information on the fund and the program to the public; and

(g) to maintain confidential records on each child who applies for assistance under the fund.

Section 6. The commission may negotiate or settle a claim that the fund maintains for reimbursement against a family who has received assistance for the medical expenses of a child with a catastrophic illness and who has recovered damages in a legal action for such expenses. A reimbursement shall be less the expense of any recovery by the family. Money recovered pursuant to this section shall be deposited in the fund.

Section 7. A child who is a resident of the commonwealth shall be eligible, through his or her parent or guardian, to apply to the program. As part of the application process, the commission shall screen each applicant for other sources of coverage and for potential eligibility for government programs, and to document the results of such screening. If the commission determines that an applicant is potentially eligible for Medicaid or another government program, the commission shall assist the applicant in applying for benefits under such program.

Section 8. Whenever a child has a catastrophic illness and is eligible for the program, the child, through his parent or guardian, may receive financial assistance from monies in the fund subject to the rules and regulations established by the commission and the availability of monies in the fund. The financial assistance shall include, but is not limited to, payments or reimbursements for the costs of medical treatment, hospital care, prescription drugs, nursing care and physician services.

Section 9. For the purposes of providing the monies necessary to establish and meet the purposes of the fund, the commission shall receive out of an employer's health insurance contribution under section 14G of chapter 151A \$1 annually for each employee whose wages determine such employer's total unemployment health insurance contribution under said section 14G of said chapter 151A. Said contribution shall be collected by the deputy director of employment and training and paid over to the state treasurer for deposit in the fund annually as provided by the commission.

Section 10. The department of public health, in consultation with the division of medical assistance, the division of health care finance and policy and the department of mental health, shall take all necessary steps to maximize and coordinate the availability of federal financial participation under Title XIX of the Social Security Act for the program established by this chapter to the extent that expenditures under such program are considered expenses incurred for medical assistance within the meaning of 42 U.S.C. §1396d(a).

Section 11. The commission shall report annually to the governor and the senate and house committees on ways and means. The report shall include information about the number of participants in the program, average expenditures per participant, the nature and type of catastrophic illnesses for which the fund provided financial assistance and the average income and expenditures of families who receive financial assistance under the program. The commission shall also make recommendations for changes in the law and regulations governing the fund.

SECTION 208. Section 1 of chapter 112 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words "of registration".

SECTION 209. Said section 1 of said chapter 112, as so appearing, is hereby further amended by striking out, in line 3, the word "registration" and inserting in place thereof the following words:- professional licensure.

SECTION 210. Chapter 112 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after section 24B the following four sections:-

Section 24C. (a) A person who desires to become registered as a pharmacy technician shall, upon payment of a fee as determined annually by the commissioner of administration under the provision of section 3B of chapter 7, apply to the board of registration in pharmacy, herein and in sections 24 to 42A, inclusive, called the board, and be entitled to consideration by the board if such person meets the education, experience and examination requirements as established and adopted by the board.

(b) The board may adopt rules and regulations governing the practice of pharmacy technicians to promote the public health, safety and welfare including, but not limited to, adopting regulations establishing continuing education requirements for license renewal.

(c) The board may, without examination, register as a pharmacy technician any applicant who is duly licensed or registered under the laws of any state or territory of the United States, the District of Columbia or the commonwealth of Puerto Rico, where the requirements for licensure or registration are in the opinion of the board equivalent to those in the commonwealth.

(d) Each pharmacy technician shall register biennially and in the year designated by the board.

Section 24D. The board shall investigate all complaints relating to the practice of pharmacy technicians. The authority granted to the board in sections 24 to 42A, inclusive, shall include the licensure and discipline of pharmacy technicians and the board may exercise such authority and conduct hearings regarding complaints in the same manner as it exercises regarding pharmacists.

Section 24E. No person shall hold himself out as a pharmacy technician registered by the board of pharmacy unless that person is registered in accordance with the provisions of this chapter.

Any person acting or purporting to act as a pharmacy technician registered by the board of pharmacy without being registered to practice under this chapter shall be guilty of a misdemeanor and upon a conviction shall be punished by a fine of not more than \$5,000 or by imprisonment for a term not to exceed one year or both. Upon conviction of a subsequent violation, such person shall be punished by a fine of not more than \$10,000 or by two years imprisonment or both.

Section 24F. Each registered pharmacy technician shall immediately give written notification to the board of the change of address and apply for an amended license. Each licensee shall also advise the board in writing of his current mailing address.

SECTION 211. Section 61 of said chapter 112, as so appearing, is hereby amended by striking out, in line 3, the word "registration" and inserting in place thereof the following words:- professional licensure.

SECTION 212. Section 201 of said chapter 112, as appearing in section 3 of chapter 146 of the acts of 1999, is hereby amended by striking out the definition of "Division" and inserting in place thereof the following definition:-

"Division", the division of professional licensure.

SECTION 213. Section 202 of chapter 112 of the General Laws, as added by section 116 of chapter 127 of the acts of 1999 is hereby amended by striking out clause (7) thereof and inserting in place thereof the following clause:-

(7) to conduct administrative proceedings in accordance with chapter 30A regarding disciplinary matters; provided however, that the provisions of subsection 12 of said chapter shall not apply to these proceedings.

SECTION 214. Section 205 of chapter 112 of the General Laws, as added by section 116 of chapter 127 of the acts of 1999, is hereby amended by inserting, after line 14, the following additional paragraphs:-

Such disciplinary action against an applicant or licensee may include any or all of the following actions:-

- (a) denial, suspension, revocation or cancellation of, or refusal to renew such license;
- (b) placement of such a license on probation;

- (c) reprimanding or censuring the holder of such license;
- (d) assessing upon the holder of such license a fine not to exceed \$5,000 for each violation;
- (e) requiring the holder of such license to perform, for each violation, up to 100 hours of community service in a manner and time to be determined by the board;
- (f) requiring the holder of such license to complete additional education and training as a condition of retention or reinstatement of such license, or requiring an applicant for such license to complete additional education and training as a condition for future consideration of such application;
- (g) requiring the holder of such license to practice under appropriate supervision for a period of time as determined by the board as a condition of retention or reinstatement of such license, or requiring an applicant for such license to practice under appropriate supervision for a period of time as determined by the board as a condition for future consideration of that application;
- (h) requiring the holder of such license to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition of retention or reinstatement of such license, or requiring an applicant for such license to participate in an alcohol or drug rehabilitation program or undergo drug testing, or both, as a condition for future consideration of such application; and
- (i) requiring the holder of such license to make restitution of not more than \$50,000, where appropriate.

Nothing in this section shall be deemed a limitation on the board's authority to impose such sanctions by consent agreement as are deemed reasonable and appropriate by the board.

Any person aggrieved by any disciplinary action taken by the board pursuant to this section may, pursuant to section 64 of chapter 112, file a petition for judicial review of such disciplinary action with the supreme judicial court. The supreme judicial court shall have exclusive jurisdiction over all such petitions and any such petition shall be reviewed in accordance with the standards for review provided in paragraph (8) of section 14 of chapter 30A.

SECTION 215. Chapter 112 of the General Laws is hereby further amended by inserting after section 215 the following section:-

Section 215A. (a) Any person or firm adversely affected by any order of the board entered after a hearing may obtain review thereof by filing a complaint for review with the supreme judicial court within 30 days of said order. The procedures for review, and the scope of the review, shall be as specified in chapter 30A, except that the provisions of section 12 of said chapter 30A shall not apply to this review.

(b) After issuing an order for revocation or suspension, the board may file a complaint in the superior court for the county in which the respondent resides or conducts his practice or in Suffolk County, to insure appropriate injunctive relief to expedite the secure enforcement of its order.

SECTION 216. Said section 216 of said chapter 112, as appearing in section 2 of chapter 44 of the acts of 2000 is hereby further amended by adding the following two paragraphs:-

Any person acting or purporting to act as a licensed perfusionist without first obtaining a license to practice under this chapter shall be punished by a fine of not more than \$5,000 or by imprisonment in the house of correction for not more than one year, or by both such fine and imprisonment. A second or subsequent conviction shall be punished by a fine of not more than

\$10,000 or by two years imprisonment in the house of correction, or by both such fine and imprisonment.

Any person who receives money or the equivalent thereof as a fee, commission, compensation or profit by unlicensed practice shall, in addition to any other penalty, be liable for a fine of not less than the sum of money so received and not more than three times the sum so received as may be determined by the board.

SECTION 217. Said chapter 112 is hereby further amended by inserting after section 219 the following section:-

Section 220. Each licensed perfusionist shall advise the board of the address of his principal place of business and other addresses at which he is currently engaged in business. Each licensee shall immediately give written notification to the board of any change of address and apply for an amended license. Each licensee shall also advise the board in writing of his current residential address.

SECTION 218. Section 1 of chapter 115 of the General Laws, as so appearing, is hereby amended by striking out, in line 45, the word "or".

SECTION 219. Said section 1 of said chapter 115, as so appearing, is hereby further amended by inserting after the word "commonwealth", in line 51, the following words:- ; or (f) meets all requirements of said clause Forty-third, except that instead of performing wartime service. as so defined, such person served at least one year of continuous active duty as a member of the armed forces of the United States of America, excluding active duty for the training in the national guard or reserves but the last discharge or release from such active duty was under honorable conditions. Any person who served during such active duty and was awarded a service connected disability by the United States Department of Veterans Affairs, or who died in such service under conditions other than dishonorable, shall be deemed to be a veteran for the purpose of receiving benefits under this chapter notwithstanding the failure to complete one year of continuous active duty.

SECTION 220. Section 1 of chapter 117A of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

A person eligible for public assistance, as determined under this chapter, who is not maintaining his home, but is receiving care in a licensed nursing home, a licensed chronic hospital, a licensed rest home, or in an approved public medical institution, shall retain the first \$66.40 of his monthly income for clothing, personal needs, and leisure time activities. If there is no such income or if it is less than \$66.40, the recipient shall be paid monthly in advance the difference between such income and \$66.40. Effective July 1, 2000, this amount shall be increased at the same time and at the same percentage rate as increases payable to an individual who is maintaining his own home and who is receiving state supplemental payments under sections 1 and 2 of chapter 118A.

SECTION 221. Chapter 118 of the General Laws is hereby amended by adding the following section:-

Section 12. Under section 115(d)(1)(A) of the Federal Personal Responsibility and Work Opportunity Reconciliation Act, 21 U.S.C. section 862a(d)(1)(A), the commonwealth hereby exempts all individuals domiciled in the commonwealth from section 115(a) of the Act, 21 U.S.C. section 862a(a). Benefits under said section 115 shall not be provided to any individual who fails to comply with the terms of a sentence, parole or probation.

SECTION 222. Section 15 of chapter 118E of the General Laws, as so appearing, is hereby amended by inserting after the second paragraph, the following paragraph:-

A person eligible for public assistance, as determined under the provisions of this chapter, who is not maintaining his own home, but is receiving care in a licensed nursing home, a licensed chronic hospital, a licensed rest home, or in an approved public medical institution, shall retain the first \$66.40 of his monthly income for clothing, personal needs, and leisure time activities. If there is no such income or if it is less than \$66.40, the recipient shall be paid monthly in advance the difference between such income and \$66.40. Effective July 1, 2000, this amount shall be increased at the same time and at the same percentage rate as increases payable to an individual who is maintaining his own home and who is receiving supplemental payments under sections 1 and 2 of chapter 118A; provided, that the division of health care and finance policy shall conduct a study and review of the cost of all personal needs items paid for by residents that are not covered by the division of medical assistance. Said study shall be completed within 60 days of the effective date of this paragraph. The division of health care and finance policy shall submit a report on the results of said study and review to the respective committee on ways and means of the house of representatives and senate not later than December 31, 2000.

SECTION 223. Subsection (2) of section 16C of chapter 118E of the General Laws, as so appearing, is hereby amended by adding the following sentence:- All children in the child health insurance program shall receive pharmacy benefits from the division of medical assistance.

SECTION 224. Section 22 of said chapter 118E, as so appearing, is hereby amended by inserting after the word "claimant", in lines 11, 12, and 18, each time it appears, the following words, in each instance:- or the claimant's heirs, estate, or legal representative.

SECTION 225. Said chapter 118E is hereby amended by inserting after section 41, as so appearing, the following section:-

Section 41A. Notwithstanding section 41 or any other general or special law to the contrary, the division shall be entitled to retain any secondary discount offered by manufacturers or suppliers of durable medical equipment; provided, the division complies with the terms of payment set by the manufacturer or supplier. A provider of durable medical equipment shall be entitled to retain a secondary discount offered by manufacturers or suppliers of durable medical equipment if the division does not comply with the terms of payment set by the manufacturer or supplier of said equipment.

This section shall apply to all claims submitted to the division by any provider of durable medical equipment on or after July 1, 2000.

SECTION 226. Said chapter 118E is hereby further amended by striking out section 46A, as so appearing, and inserting in place thereof the following section:-

Section 46A. Any provider making a claim for payment under any medical assistance program administered by the division, which is not submitted in compliance with the billing policies and procedures of said program, shall not be considered in violation of sections 39 to 46, inclusive, for purposes of eligibility pursuant to section 36, upon submission of proof, to the satisfaction of the commissioner, that the submission of the claim was due solely to a clerical or administrative error.

SECTION 227. The General Laws are hereby amended by inserting after chapter 121C the following chapter:-

CHAPTER 121D.

AFFORDABLE HOUSING TRUST FUND.

Section 1. As used in this chapter, the following terms shall have the following meanings:-

"Agency", the Massachusetts Housing Finance Agency, established by section 3 of chapter 708 of the acts of 1966.

"Committee", the advisory committee established by section 4.

"Fund", the Affordable Housing Trust Fund established by section 2.

Section 2. (a) There shall be a separate fund to be known as the Affordable Housing Trust Fund, which shall be sited within the Department of Housing and Community Development. The Department shall enter into a contract with the Massachusetts Housing Finance Agency for the administration of the fund, according to guidelines promulgated by the Department and in consultation with the advisory committee. The fund shall assist in the creation and preservation of affordable housing in the commonwealth, for the benefit of households whose incomes are not more than 110 per cent of median income as determined by the federal Department of Housing and Urban Development. The fund shall be an expendable trust fund and shall not be subject to appropriation.

(b) There shall be credited to the fund, revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, and gifts, grants, private contributions, repayment of loans, investment income earned on the fund's assets, and all other sources. Money remaining in the fund at the end of a fiscal year shall not revert to the general fund.

(c) The agency shall maintain the fund as a separate fund, and shall cause it to be audited by an independent accountant on an annual basis in accordance with accepted accounting principles.

(d) The agency shall administer assistance from the fund for projects owned or sponsored by non-profit or for-profit organizations, including but not limited to projects that involve complex multiple-source financing or the preservation of existing affordable housing; provided, however, that no such assistance shall be permitted unless the sponsor thereof is current on all existing mortgage obligations with the commonwealth or any subdivision thereof. The agency shall enter into agreements with the Community Economic Development Assistance Corporation to administer assistance from the fund for projects owned or sponsored by nonprofit organizations, after consulting the advisory committee established by section 4.

Section 3. (a) The fund shall finance low and no interest loans, grants, subsidies, credit enhancements and other financial assistance for community affordable and mixed-income housing developments and shall pay for administering the fund; provided, however, that such assistance shall be the minimum amount necessary to make a project feasible. Activities eligible for assistance from the fund include, but are not limited to:

(1) Capital grants and deferred payment loans for new construction, rehabilitation, or acquisition of housing units;

(2) Capital grants and deferred payment loans for new construction, rehabilitation, or acquisition of permanent housing or transitional housing units for homeless families and individuals;

(3) Mortgage insurance guarantees and other credit enhancements for eligible projects;

(4) Projects making affordable housing more accessible to senior citizens and people with disabilities;

(5) Matching funds for municipalities that sponsor affordable housing initiatives;

(6) Down payment and closing cost assistance for first-time home buyers;
(7) Matching funds for employer-based programs to assist employees in meeting their rental and homeownership housing costs; and

(8) Repair, rehabilitation and modernization of existing public housing units. The fund shall expend for this purpose not more than \$5 million per year.

(b) Organizations that may receive assistance from the fund include governmental subdivisions, community development corporations, local housing authorities, community action agencies, community-based or neighborhood-based non-profit housing organizations, other non-profit organizations, for-profit entities and private employers. Preference shall be given to nonprofit organizations, to organizations sponsoring projects that secure private funds and to projects with the longest-term affordability restrictions.

(c) Housing units constructed, rehabilitated, or acquired using funds from the fund shall remain affordable for the longest period reasonably achievable and consistent with affordability restrictions as part of the development's other funding sources. In the absence of other affordability restrictions, housing units constructed, rehabilitated, or acquired using funds from the fund shall remain affordable for not less than 30 years.

(d) The fund shall give special attention to the preservation of developments which are or were subject to prepayment of a state or federally assisted mortgage or which are receiving project-based rental assistance under section 8 of the United States Housing Act of 1937, 42 U.S.C. section 1437f, and such rental assistance is expiring; provided, however, that such funding priority shall be based on at-risk criteria to be determined by the Department of Housing and Community Development in conjunction with the Massachusetts Housing Finance Agency and set forth in regulations promulgated by the Department.

Section 4. (a) There shall be established an advisory committee to the fund, which shall make policy recommendations to the agency and to the department of housing and community development regarding the fund's program and funding activities.

(b) The committee shall be comprised of the following 15 members: the director of the Department of Housing and Community Development or his designee; the executive director of the Massachusetts Housing Partnership Fund or his designee; the executive director of the Community Economic Development Assistance Corporation or his designee; two municipal officials appointed by the Massachusetts Municipal Association, one of whom shall be from a city and one of whom shall be from a town; one lender experienced in the financing of affordable housing and one for-profit developer of affordable housing, each appointed by the agency; an executive director of a local housing authority appointed by the Massachusetts chapter of the National Association of Housing and Redevelopment Officials; and a representative appointed by each of the following organizations: the Citizens' Housing and Planning Association, Inc., the Massachusetts Affordable Housing Alliance, the Massachusetts Association of Community Development Corporations, the Massachusetts Nonprofit Housing Association, the Massachusetts Housing and Shelter Alliance and the Greater Boston Interfaith Organization. Committee members shall serve at the pleasure of the appointing authorities.

(c) Chapter 268A shall apply to committee members as special state employees, but the fund may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any committee member is in any way interested or involved, if such interest or involvement is disclosed in advance to the members of the committee and recorded in the minutes of the committee meeting. No committee member having such an interest or involvement may participate in any action of the committee relating to such person.

Employment by the commonwealth or service in any agency thereof shall not be deemed to be such an interest or involvement.

Section 5. The Massachusetts Housing Finance Agency shall, as part of its annual report requirement set forth in section 14 of chapter 708 of the Acts of 1966, detail all expenditures from the fund, including but not limited to the recipient of the funds, the cost of administration, and the number of units constructed, acquired and rehabilitated.

SECTION 228. Section 1 of chapter 124 of the General Laws, as amended by section 132 of chapter 127 of the acts of 1999, is hereby further amended by adding the following two clauses:-

(s) adopt policies and procedures establishing reasonable medical and health service fees for the medical services that are provided to inmates at any state jail or correctional facility. Except as otherwise provided, the commissioner may charge each inmate a reasonable fee for any medical and mental health services provided, including prescriptions, medication, or prosthetic devices. The fee shall be deducted from the inmate's account as provided for in section 48A of chapter 127. The commissioner shall exempt the following inmates from payment of medical and health services fees: medical visits initiated by the medical or mental health staff, consultants, or contract personnel of the department, prisoners determined to be terminally ill, pregnant, or otherwise hospitalized for more than 30 days successively during the term of incarceration and juvenile inmates and inmates who are undergoing follow-up medical treatment for chronic diseases. Notwithstanding any other provision of this section, an inmate shall not be refused medical treatment for financial reasons. The commissioner shall also establish criteria for reasonable deductions from moneys credited to the inmate's account as provided for in section 48A of chapter 127 to repay the cost of medical treatment for injuries that were self-inflicted or inflicted by the inmate on others.

(t) in accordance with clause (s), the commissioner shall as part of the rules and regulations on payments for medical services, require the department of corrections or the county correctional facility to ascertain whether any inmate seeking medical services has health insurance coverage and if said inmate does have health insurance coverage, said health insurance plan shall be billed for any services provided.

SECTION 229. Section 1 of chapter 125 of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by inserting after the word "Monroe", in line 36, the following words:- , or any correctional facility owned by the commonwealth which accepts inmates from more than one county or former county.

SECTION 230. Section 133A of said chapter 127, as so appearing, is hereby amended by inserting after the word "membership", in line 7, the following words:- unless a member of the board is determined to be unavailable as provided in this section. For the purposes of this section, the term unavailable shall mean that a board member has a conflict of interest to the extent that he cannot render a fair and impartial decision or that the appearance of a board member would be unduly burdensome because of illness, incapacitation, or other circumstance. Whether a member is unavailable for the purposes of this section shall be determined by the chair. Board members shall appear unless said chair determines them to be unavailable. Under no circumstances shall a parole hearing proceed pursuant to this section unless a majority of the board is present at the public hearing. Unless a board member is unavailable due to a conflict of interest, any board member who was not present at the public hearing shall review the record of the public hearing and shall vote in the matter.

SECTION 231. Section 6 of chapter 131A of the General Laws, as appearing in the 1998 Official Edition, is hereby amended by striking out subsections (c) and (d) and inserting in place thereof the following three subsections:-

(c) Any person who violates section 2 or any rule or regulation adopted under this chapter shall be subject to a civil assessment not to exceed \$10,000 for each such violation. The civil assessment may be asserted in an action brought on behalf of the commonwealth in a court of competent jurisdiction.

The superior court shall have jurisdiction to enjoin violations of, or to grant such additional relief as it deems necessary or appropriate to secure compliance with this chapter upon petition of the director or the attorney general.

(d) The commission of a prohibited act with respect to each individual animal or plant, or part thereof, shall constitute a separate violation.

(e) All fines and assessments received on account of litigation or settlement thereof for a violation of this chapter or the regulations promulgated thereunder shall be paid to the commonwealth and shall be deposited into the Natural Heritage Endangered Species Fund established pursuant to section 35D of chapter 10 for the purpose of aiding in the protection and enhancement of rare, threatened and endangered species in the commonwealth.

SECTION 232. The second sentence of subsection (b) of section 7A of chapter 132B of the General Laws, as appearing in section 12 of chapter 85 of the acts of 2000, is hereby amended by inserting after the word "dealer" the following words:- , one certified arborist.

SECTION 233. Section 129B of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out, in lines 169 through 171, inclusive, the words "and shall expire on the anniversary of the cardholder's date of birth occurring not less than three years but not more than four years from the date of issue".

SECTION 234. Subsection (1) of section 44A of chapter 149 of the General Laws, as so appearing, is hereby amended by adding the following definition:-

"Owner's representative", the official or firm designated by the public agency who shall have appropriate fiscal, procurement and construction experience and shall serve as the focal point of responsibility and accountability on the project from the study and design phases through the completion of construction of the building project. Such responsibilities shall include, but not be limited to, coordinating communication among the project participants, monitoring the project budget and schedule and maintaining a central file for project records. By January 1, 2002, every owner's representative subject to this section shall have obtained certification through the Massachusetts Certified Public Purchasing Official Program administered by the office of the inspector general. The owner's representative shall be a state, county or municipal employee pursuant to chapter 268A with respect to any project for which that official, person or firm serves as the owner's representative.

SECTION 235. Said section 44A of said chapter 149, as so appearing, is hereby further amended by adding the following subsection:-

(6) For any contract for construction, reconstruction, installation, demolition, maintenance or repair of any building awarded pursuant to this section, and estimated by the awarding authority to cost more than \$500,000, the awarding authority shall, as a condition for the disbursement and acceptance of any funding from the commonwealth, employ or contract with an owner's representative, as defined in subsection (1).

SECTION 236. Section 44D of said chapter 149, as so appearing, is hereby amended by inserting, after the word "contract", in line 39, the following words:- , the nature of any

financial, personal or familial relationship to any public or private construction project owners listed on the application as constituting prior construction experience.

SECTION 237. Said section 44D of said chapter 149, as so appearing, is hereby further amended by striking out, in line 55, the words "forty-four C" and inserting in place thereof the following words:- 44C and shall subject the applicant to the punishments for perjury as set forth in section 1 of chapter 268.

SECTION 238. Said section 44D of said chapter 149, as so appearing, is hereby further amended by inserting after the word "contractor", in line 104, the following words:- or reduce the classes of work and amount of work on which the contractor is eligible to bid.

SECTION 239. Said section 44D of said chapter 149, as so appearing, is hereby further amended by striking out subsection (7) and inserting in place thereof the following subsection:-

(7) The division of capital asset management and maintenance shall develop a standard contractor evaluation form that shall be completed by every public agency as defined in section 44A, upon completion of a building project under its control, and submitted to the division for the contractor's qualification file. The official from the public agency, or the owner's representative, shall certify that the information contained on the contractor evaluation form represents, to the best of his knowledge, a true and accurate analysis of the contractor's performance record on that contract. The public agency shall mail a copy of the contractor evaluation form to the contractor and the contractor shall, within 30 days, submit a written response to the division disputing any information contained in the evaluation form and setting forth any additional information concerning the building project or the oversight of the contract by the public agency that may be relevant to the evaluation of the contractor's performance on the contract. The division shall attach any such response to the evaluation form for inclusion in the contractor's qualification file. No person shall be liable for any injury or loss to a contractor as a result of the completion of a contractor evaluation form as required by this section unless the individual completing the form has been found by a court of competent jurisdiction to have acted in a willful, wanton or reckless manner. If a suit is commenced by a contractor against a public employee, an owner's representative, an architect or an engineer who has completed a contractor evaluation form as required by this section seeking to recover damages resulting from injury caused by such evaluation, the public agency for whom such evaluation form was completed, or the commonwealth if such evaluation was completed for a state agency, shall provide for the legal representation of said employee, owner's representative, architect or engineer. Such public agency, or the commonwealth, shall also indemnify such person from all financial loss and expenses, including but not limited to legal fees and filing costs, in an amount not to exceed \$1,000,000. No such person shall be indemnified for losses other than legal fees and filing costs under this section if such person is found by a court or a jury to have acted in a willful, wanton or reckless manner.

At approximately the 50 per cent completion stage of a building project under its control, the awarding authority shall advise the contractor in writing of the awarding authority's preliminary evaluation of the contractor's performance on the project for informational purposes.

Any public agency that fails to complete and submit the contractor evaluation form, together with any written response by any contractor, to the division within 70 days of the completion of a project shall be ineligible for the receipt of any public funds disbursed by the commonwealth for the purposes of any public buildings or public works projects.

SECTION 240. Paragraph (a) of subsection (1) of section 44F of said chapter 149 of the General Laws, as so appearing, is hereby amended by striking out the second sentence and

inserting in place thereof the following sentence:- Such specifications shall have a separate section for each of the following classes of work if in the estimate of the awarding authority such class of work will exceed \$10,000: (a) roofing and flashing; (b) metal windows; (c) waterproofing, damp-proofing and caulking; (d) miscellaneous and ornamental iron; (e) lathing and plastering; (f) acoustical tile; (g) marble; (h) tile; (i) terrazzo; (j) resilient floors; (k) glass and glazing; (l) painting; (m) plumbing; (n) heating, ventilating and air-conditioning; (o) electrical work, including direct electrical radiation for heating; (p) elevators; (q) masonry work; (r) fire protection; (s) excavation and earth removal; and (t) any other class of work for which the awarding authority deems it necessary or convenient to receive sub-bids, provided that the awarding authority may, in addition, receive a combined sub-bid on the marble, tile and terrazzo work, but in that event, the marble, tile and terrazzo work shall each be a class of work for which the sub-bidder must list the information in a clearly designated place on the bid form for that purpose.

SECTION 241. Section 14G of chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after the word "subsection (k)", in line 16, the following words:- , but \$1 annually for each employee whose wages determine each employer's total unemployment health insurance contribution shall be deposited in the Catastrophic Illness in Children Relief Fund established by section 2ZZ of chapter 29.

SECTION 242. Said section 14G of said chapter 151A, as so appearing, is hereby amended by inserting after the word "compensation", in line 213, the following words:- , except that \$1 annually for each employee whose wages determine each employer's total unemployment health insurance contribution shall be deposited in the Catastrophic Illness in Children Relief Fund established by section 2ZZ of chapter 29. The \$1 contribution shall be made after the Medical Security Trust Fund has met its obligations.

SECTION 243. Subsection (k) of said section 14G of said chapter 151A, as so appearing, is hereby amended by striking out the last sentence and inserting in place thereof the following three sentences:- The deputy director shall report annually to the governor and the senate and house committees on ways and means. The report shall include information about the number of participants in the Medical Security Trust Fund, along with an estimate of amounts necessary to meet the current obligations of the department and the obligations for a reasonable future period. The deputy director shall also make recommendations for changes in the law and regulations governing the fund.

SECTION 244. Section 1 of chapter 185C of the General Laws, is hereby amended by striking out, in lines 2 and 3, the words "division for Hampden county" and inserting in place thereof the following words:- western division, consisting of the cities and towns of Berkshire, Franklin, Hampden and Hampshire counties.

SECTION 245. Section 3 of said chapter 185C, as so appearing, is hereby amended by striking out, in line 5, the words "county of Hampden in the case of that division" and inserting in place thereof the following words:- counties of Berkshire, Franklin, Hampden and Hampshire in the case of the western division.

SECTION 246. Said section 3 of said chapter 185C, as so appearing, is hereby further amended by striking out, in lines 32 and 33, the words "Hampden county, in the case of that division" and inserting in place thereof the following words:- Berkshire, Franklin, Hampden and Hampshire counties, in the case of the western division.

SECTION 247. Section 4 of said chapter 185C, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

The western division of the housing court department shall hold its sittings in the city of Springfield in Hampden county and at least one sitting each week in courthouse facilities in Berkshire, Franklin and Hampshire counties. The court, with the consent of the chief administrative justice and management shall also sit in such other courthouse facilities as the chief justice of the housing court department may deem to be expedient or convenient.

SECTION 248. Section 8 of said chapter 185C, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "Hampden county division" and inserting in place thereof the following words:- western division.

SECTION 249. Said section 8 of said chapter 185C, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the words "one justice" and inserting in place thereof the following words:- two justices.

SECTION 250. Section 9 of said chapter 185C, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- The clerk appointed for the western division shall reside in either Berkshire, Franklin, Hampden or Hampshire counties.